

**SEVENTY-FIFTH DAY.**

Senate Chamber,  
Austin, Texas,  
May 22, 1933.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

Absent—Excused.

Beck. Cousins.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

**Committee Reports.**

(See Appendix.)

**Bills and Resolutions.**

By unanimous consent the rule relating to the introduction of general bills after the first 52 days of the session was suspended and consent was granted to introduce the following bill:

By Senator Purl:

S. B. No. 566, A bill to be entitled "An Act to amend Sections 1, 2 and 6, Chapter 148 of the General Laws passed by the Forty-second Legislature at its Regular Session in 1931, relating to the authority of counties and incorporated cities and the Texas State Parks Board, separately, or in cooperation with each other, to acquire by gift or purchase land for public parks; providing that lands to be acquired by any such city to be

used for public parks and play grounds, may be situated within or without its corporate limits, in the discretion of the governing body thereof, but within the county in which such city is situated; authorizing the issuance of bonds by any such city for park purposes; adding to said Chapter 148 a new Section to be called Section 2-a, legalizing, approving and validating bonds voted by any city or town for the purpose of purchasing and improving lands for a public park in and for said city or town, and the levy of the tax in payment of such bonds under authority of Chapter 148 of the General Laws passed at the Regular Session of the Forty-second Legislature; and which bonds have been approved by the Attorney General and registered by the Comptroller; authorizing the governing body of any such city or town to adopt all orders, resolutions and ordinances and to do all other and further acts necessary in the issuance or sale of such bonds; authorizing such governing body to levy a direct general ad valorem tax on all taxable property in said city or town for the purpose of paying the interest on and principal of such bonds; prescribing the maximum tax that may be levied in payment of bonds issued by cities and towns for park purposes; providing that nothing herein shall be construed as a repeal of any special charter, but that the provisions hereof shall be cumulative of any such special charter; repealing all provisions of the general statutes in conflict herewith, and particularly repealing H. B. No. 104, passed at the present session of this Legislature, and which was approved and effective on April 17, 1933; declaring the legislative intent in respect of the enactment of said Chapter 148 of the General Laws of the Forty-second Legislature, Regular Session; enacting provisions incident and necessary to the subject and purpose of this Act, and declaring an emergency."

Read and referred to Committee on Towns and City Corporations.

**Senators Excused.**

The following Senators were excused for the day:

Senator Beck, illness, on motion of Senator Neal.

Senator Cousins, illness in the family, on motion of Senator Redditt.

#### Bills Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing and did sign, in the presence of the Senate, after their captions had been read, the following bills and resolutions:

S. B. No. 242.	H. B. No. 900.
S. B. No. 148.	H. B. No. 937.
S. C. R. No. 72.	H. C. R. No. 56.
S. C. R. No. 2.	H. C. R. No. 61.
H. B. No. 558.	H. C. R. No. 62.

#### S. C. R. No. 73.

Senator Redditt sent up the following resolution:

Whereas, The Federal Government does not own any National Parks or National Forests in the State of Texas; and

Whereas, Many citizens of the State of Texas are urging the Federal Government, in order to assist the unemployment situation in Texas, to establish National Parks in the State of Texas and forests in the State of Texas; and

Whereas, Many citizens of the State of Texas are urging the Federal Government, in an effort to relieve unemployment in Texas, to purchase various tracts of land in this State and re-sell same to citizens on long term payments, in order that they might own their own homes with sufficient land for the support and maintenance of their families; Be It Therefore

Resolved by the Senate of Texas, the House of Representatives concurring, That the State of Texas agree and consent for the Federal Government to purchase lands in Texas for any of the purposes hereinbefore mentioned; provided, however, that the State Forester, with consent and approval of the Board of Directors of A. & M. College, must first approve the purchase of any land for National Forests, and the State Parks Board must first approve the purchase of any land for National Parks in this State, and provided further that the State Relief Commission must approve any

purchase of land by the Federal Government for re-sale; Be It Further

Resolved, That a copy of these resolutions be furnished to each of the United States Senators from Texas and each of the Congressmen from Texas.

REDDITT.

The resolution was read.

The rule requiring resolutions to be referred before consideration was suspended by unanimous consent.

The resolution was adopted.

#### Simple Senate Resolution No. 115.

Senator Regan sent up the following resolution:

Whereas, The Honorable Claude B. Hudspeth, for a decade a member of the State Senate of Texas, has now recovered his health and is spending his time chasing sheep and goats on his Devil's River Ranch in Crockett County, Texas; and

Whereas, His many friends in the Senate and the City of Austin are very desirous of seeing him; now Therefore, Be It

Resolved, That the Honorable C. B. Hudspeth be requested to visit the City of Austin and address the Senate of Texas before its adjournment.

REGAN,	MURPHY,
PARR,	NEAL,
PURL,	ONEAL,
BECK,	PACE,
BLACKERT,	PATTON,
COLLIE,	POAGE,
COUSINS,	RAWLINGS,
DeBERRY,	REDDITT,
DUGGAN,	RUSSEK,
FELLBAUM,	SANDERFORD,
GREER,	SMALL,
HOLBROOK,	STONE,
HOPKINS,	WOODRUFF,
HORNSBY,	WOODUL,
MARTIN,	WOODWARD.
MOORE,	

LIEUT. GOV. EDGAR E. WITT.  
Read and adopted.

#### Messages From the Governor.

Executive Department,

Austin, Texas, May 22, 1933.

To the Forty-third Legislature:

I beg to advise that I have this day approved House Bill No. 844 and House Bill No. 154. Both of these bills cover the matter of en-

forcing the proration laws of the State by criminal penalties provided. There are separate provisions in each bill covering the same subject matter, and I suggest that you give consideration to same so as to prevent any possibility of conflict in the two bills.

I have been advised by able attorneys that there is serious doubt as to the form of the legislation proposed by House Bill No. 154, especially the provisions relating to intangible taxation. It has been suggested to me that only slight corrections are necessary to insure the validity of the bill. As the tax hoped to be raised by this bill involves millions, I suggest that you consider the question of such changes or corrections in the bill as will leave no doubt as to the regularity of its form and provisions.

Respectfully submitted,  
MIRIAM A. FERGUSON,  
Governor.

Executive Department,  
Austin, Texas, May 22, 1933.  
To the Forty-third Legislature:

I am attaching hereto copy of telegram received from United States Senator Morris Sheppard, and I am submitting for your consideration the subject matter of his telegram. Also attached is a copy of resolution by the East Texas Chamber of Commerce which resolution is referred to in the telegram from Senator Sheppard.

Respectfully,  
MIRIAM A. FERGUSON,  
Governor.

(Telegram.)

May 20 PM 1 17  
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26 140P  
Governor Miriam A. Ferguson, Austin, Texas.

Hon. Lawrence Westbrook and I conferred with General Hugh Johnson, President's Director under National Industrial Recovery Act this morning. General Johnson thinks it essential that our Texas Legislature pass an Act in accordance with resolution adopted by Waco Chamber of Commerce May 9 and later by East and West Texas Chambers of Commerce copy of which was sent you and copy of which was brought here by Mr. Westbrook to-wit: That during the present emergency it shall

not be unlawful our so called anti-trust laws to the contrary notwithstanding for any Texas citizen or institution to do those things which may be approved by the President in connection with his National Industrial Recovery Program. Mr. Westbrook and I concur with General Johnson and trust our Legislature will see fit in their wisdom and judgment to take prompt action along this line.

MORRIS SHEPPARD.

Whereas, President Roosevelt has said in part: "We are working toward a definite goal which is to prevent the return of conditions which came very close to destroying what we call modern civilization. Well considered and conservative measures will be proposed which will attempt to give the industrial workers of the country a more fair wage return, prevent cut-throat competition, and unduly long hours of labor, and at the same time encourage each industry to prevent overproduction;" and

Whereas, President Roosevelt has also said in part: "Government ought to have the right and will have the right, after surveying and planning for an industry to prevent, with the assistance of the overwhelming majority of that industry, unfair practice. The so-called anti-trust laws were intended to prevent the creation of monopolies and to forbid unreasonable profits to those monopolies. That purpose of the anti-trust laws must be continued, but these laws were never intended to encourage the kind of unfair competition that results in long hours, starvation wages, and overproduction." Therefore, be it

Resolved by the East Texas Chamber of Commerce, That we earnestly urge Governor Miriam A. Ferguson and the Legislature of Texas to cooperate to the end that such revision of the anti-trust laws of Texas shall be had as will permit the business interests of Texas engaged in intra-state commerce to enjoy all the rights and benefits that may accrue to the business interests of the United States engaged in inter-state commerce through revision of Federal anti-trust laws under President Roosevelt's plans for self-regulation of industry.

## Messages From the House.

Hall of the House of Representatives,  
Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

H. C. R. No. 94, Authorizing the enrolling clerk of the House to make certain changes in H. B. No. 167.

The House has concurred in Senate amendments to House Bill No. 333 by a vote of 104 yeas and 0 nays.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate amendments to House Bill No. 459 by a viva voce vote.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 393, A bill to be entitled "An Act providing relief for the Silas Common School District No. 17, Shelby County, Texas, in order to aid said district in rebuilding its property and equipment destroyed by fire, about the middle of October, 1932; making an appropriation in the total sum of two thousand dollars (\$2,000) out of the General Fund to said district for said purpose, and declaring an emergency."

H. B. No. 771, A bill to be entitled "An Act providing for the creation of the Texas Canyon State Park; withdrawing certain public school lands in Brewster and Presidio Counties, Texas, from sale; providing for conveyance of said land to the State of Texas for park purposes; valuing same, and making an appropriation out of the General Revenue for payment of the Permanent School Fund

of Texas for consideration of such transfer; providing that said Texas Canyon State Park shall be under supervision and control of said Texas Parks Board, and declaring an emergency."

H. B. No. 821, A bill to be entitled "An Act providing for an emergency appropriation in the sum of eight hundred dollars (\$800) to pay the mileage and per diem of the members of the State Board of Health for two more meetings to be held during the year 1933, and declaring an emergency."

H. B. No. 83, A bill to be entitled "An Act to provide for the Texas Prison Board, through its general manager, bidding for contracts to supply the State with printing, binding and supplies of like character with the Board of Control without a bond, and entering into such contracts with the Board of Control without a bond, and entering into such contracts with the Board of Control without executing a bond, and declaring an emergency."

H. B. No. 928, A bill to be entitled "An Act to make provisions for: (Section 1): To anticipate the submission and adoption of the proposed constitutional amendment to provide for the adoption of a home rule charter by any county in Texas, upon a vote of the qualified resident electors of any county, all as proposed in the pending Senate Resolution No. 3. Reference to said proposed amendment to the Constitution in the exact form for submission to the electors of the State here is made, to the same effect as though it were embodied herein. Further providing (Section 21 hereof) that, no county charter provision impairing the operation of the general laws of the State relating to the judicial, tax, fiscal, educational, police, highway, and health systems of the State, or any department of the State's superior government may have effect as against the State, etc."

H. B. No. 876, A bill to be entitled "An Act appropriating the sum of \$1,127.10 to pay the balance due by the State of Texas as its share of court costs in the case of the State of New Mexico vs. the State of Texas, Number 2, Original, October Term, 1930, Supreme Court of the United States, being a suit locating

and marking upon the ground the boundary line between the State of Texas and the State of New Mexico; and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

**Senate Simple Resolution No. 117.**

Senator Woodruff sent up the following resolution:

Whereas, There is now pending before the National House of Representatives, sitting in special session in Washington, D. C., several measures affecting the interests of property rights and individual liberties and privileges of the citizens of the State of Texas; and

Whereas, Some of these measures represent change in the policy of our National Government to the extent that they may violate, or at least affect the principles of States' rights; and

Whereas, Some of these measures are especially directed and leveled at the oil industry which is, so far as Texas is concerned, the greatest revenue producing industry in our State, and is our principal natural resource; and

Whereas, Most of these bills affecting the oil industry are predicated upon and are the outgrowth of the conditions brought about by the discovery of and the production in the great East Texas oil field located in five of our East Texas counties; and

Whereas, The independent oil interests have their representatives in Washington at this time attending the hearing before the Ways and Means Committee of the House of Representatives, which Committee has under consideration these bills; and

Whereas, The integrated companies, commonly referred to as majors, not only in Texas but of the Nation, have their representatives at Washington advising and consulting with members of this same Committee; and

Whereas, The State of Kansas has its representative at Washington appearing before said Committee; and

Whereas, All of these various representatives are at logger-head with each other and are presenting conflicting and varying theories and principles to each other, and are even differing among themselves; and

Whereas, The State of Texas is vitally interested in these measures, and if they or any one of them are enacted, that some provision be made therein so as not to interfere with or conflict with the rights of the State of Texas, or to infringe upon its revenues to be derived therefrom; and

Whereas, The State of Texas has no representative attending these conferences and committee hearings and looking after the interests of this State as a whole, or the principles of government represented by the free people of this great commonwealth; and

Whereas, The Senate of the State of Texas and the House of Representatives of the State of Texas have heretofore each passed simple resolutions, and the Senate and the House of Representatives have each passed concurrent resolutions requesting of our great Democratic President and the National House of Representatives and National Senate that no law be passed affecting the principles of States' rights, and especially that no law be passed placing the management or the control of the oil industry into the hands of the Federal Government or any department thereof, because the peoples of this great State feel that they are well qualified and ably proficient and conversant with conditions to handle and manage their own affairs and the resources and industries of their own State; now, therefore, be it

Resolved, by the Senate of the State of Texas, That the Attorney General of this State be empowered, authorized and requested immediately to go or send to Washington a member of his staff to appear before the necessary committees and present to them the views of the State of Texas and to confer with them upon the policies and principles which the Attorney General of Texas deems necessary and thinks advisable to protect the affairs and policies of this State's government; and be it further

Resolved, That the Senate of the State of Texas immediately select from among its own members one representative to accompany the Attorney General to Washington to assist him in the above mentioned matter; and be it further

Resolved, That the actual and necessary expenses of these representatives of the State of Texas be paid

out of the Contingent Expense Fund of the Senate upon vouchers duly sworn to in the customary and usual manner.

## WOODRUFF.

The resolution was read.

Senator Woodruff asked unanimous consent to suspend the rule requiring resolutions to be referred before consideration.

Objection was heard.

Senator Woodruff moved to suspend the rule and consider the resolution at this time. The motion was lost by the following vote:

## Yeas—14.

Duggan.	Oneal.
Fellbaum.	Pace.
Greer.	Purl.
Holbrook.	Rawlings.
Hornsby.	Regan.
Murphy.	Small.
Neal.	Woodruff.

## Nays—8.

Collie.	Redditt.
DeBerry.	Sanderford.
Martin.	Stone.
Poage.	Woodul.

## Absent.

Blackert.	Patton.
Hopkins.	Russek.
Moore.	Woodward.
Parr.	

## Absent—Excused.

Beck.	Cousins.
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Senator Woodul moved to reconsider the vote by which the motion was lost.

The motion to reconsider prevailed by the following vote:

## Yeas—18.

Duggan.	Patton.
Fellbaum.	Purl.
Greer.	Rawlings.
Holbrook.	Regan.
Hornsby.	Russek.
Moore.	Small.
Murphy.	Woodruff.
Neal.	Woodul.
Pace.	Woodward.

## Nays—9.

Blackert.	DeBerry.
Collie.	Martin.

Oneal.	Sanderford.
Poage.	Stone.
Redditt.	

## Absent.

Hopkins.	Parr.
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## Absent—Excused.

Beck.	Cousins.
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The motion to suspend the rule and take up the resolution prevailed by the following vote:

## Yeas—18.

Duggan.	Pace.
Fellbaum.	Patton.
Greer.	Purl.
Holbrook.	Rawlings.
Hornsby.	Regan.
Moore.	Small.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

## Nays—9.

Blackert.	Redditt.
Collie.	Russek.
DeBerry.	Sanderford.
Martin.	Stone.
Poage.	

## Absent.

Hopkins.	Parr.
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## Absent—Excused.

Beck.	Cousins.
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Senator Woodul sent up the following amendment:

Amend the pending resolution by adding the following:

"Be it further resolved that

"The representative of this Senate is hereby instructed to advise all parties concerned in Washington that if our views cannot prevail in view of the fact that we cannot know all of the angles to the problem, we shall gladly yield our personal views in this time of stress to those of our great Democratic President, Franklin D. Roosevelt."

## WOODUL.

The amendment was read.

Senator Holbrook moved to table the amendment. The motion prevailed by the following vote:

## Yeas—14.

Duggan.	Holbrook.
Greer.	Hornsby.

Moore.	Purl.
Murphy.	Rawlings.
Pace.	Regan.
Parr.	Woodruff.
Poage.	Woodward.

**Nays—11.**

Blackert.	Russek.
Collie.	Sanderford.
Fellbaum.	Small.
Martin.	Stone.
Neal.	Woodul.
Patton.	

**Absent.**

DeBerry.	Oneal.
Hopkins.	Redditt.

**Absent—Excused.**

Beck.	Cousins.
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Senator Martin sent up the following amendment:

Amend pending resolution by adding the following thereto:

"That before the said representative so selected and designated depart for Washington he shall be furnished by the Senate written instructions as to the views of this Senate and of the people of the State of Texas and of the oil industry to the end that he may know he is presenting and recommending the views of all concerned."

MARTIN.

The amendment was read.

Senator Collie raised the point of order that the time for the consideration of the resolution had expired.

The Chair, Senator Small, overruled the point of order.

Senator Purl sent up the following amendment to the amendment.

Amend amendment:

We again re-affirm our faith in the leadership of our great President and have implicit faith in his character and ability and are depending upon this great leader to keep our government founded on the rock of fundamental principles founded by our fathers granting State rights.

PURL.

Senator Collie raised the point of order that the time for the consideration of this resolution had expired.

The Chair, Senator Small, sustained the point of order.

Senator Woodul moved to suspend Senate Rule No. IX. The motion prevailed by the following vote:

**Yeas—22.**

Blackert.	Patton.
Duggan.	Purl.
Greer.	Redditt.
Holbrook.	Regan.
Hornsby.	Russek.
Martin.	Sanderford.
Moore.	Small.
Murphy.	Stone.
Neal.	Woodruff.
Pace.	Woodul.
Parr.	Woodward.

**Nays—4.**

Collie.	Poage.
Fellbaum.	Rawlings.

**Absent.**

DeBerry.	Oneal.
Hopkins.	

**Absent—Excused.**

Beck.	Cousins.
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The amendment to the amendment was read and adopted.

Senator Woodruff moved to table the amendment as amended. The motion prevailed by the following vote:

**Yeas—16.**

Duggan.	Pace.
Fellbaum.	Parr.
Greer.	Patton.
Holbrook.	Rawlings.
Hornsby.	Regan.
Moore.	Small.
Murphy.	Woodruff.
Neal.	Woodward.

**Nays—10.**

Blackert.	Redditt.
Collie.	Russek.
Martin.	Sanderford.
Poage.	Stone.
Purl.	Woodul.

**Absent.**

DeBerry.	Oneal.
Hopkins.	

**Absent—Excused.**

Beck.	Cousins.
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Senator Stone sent up the following amendment:

Amend S. R. No. 117 by striking out the following:

"That the Attorney General of this State be empowered, authorized and requested immediately to go or to send to Washington, a member of his staff" and substituting in lieu thereof, "that the Senate of the State of Texas be authorized to select one of its members to go or to send to Washington immediately."

STONE.

The amendment was read.

Senator Woodruff moved to table the amendment. The motion prevailed.

Senator Sanderford sent up the following amendment:

Amend by giving authority to the Hon. Lieutenant Governor to appoint some member of the Senate representing the minority, to go to Washington in order to present accurately the information pertaining to adequate control of the oil industry.

SANDERFORD.

The amendment was read.

Senator Woodruff moved to table the amendment. The motion prevailed by the following vote:

Yeas—16.

DeBerry.	Parr.
Fellbaum.	Patton.
Greer.	Purl.
Holbrook.	Regan.
Moore.	Russek.
Murphy.	Small.
Neal.	Woodruff.
Pace.	Woodward.

Nays—11.

Blackert.	Rawlings.
Collie.	Redditt.
Duggan.	Sanderford.
Hornsby.	Stone.
Martin.	Woodul.
Poage.	

Absent.

Hopkins.	Oneal.
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Absent—Excused.

Beck.	Cousins.
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Senator Woodul sent up the following amendment:

Amend the last paragraph on p. 2 of the resolution to read as follows:

"Be It Further Resolved, That the Lieutenant Governor appoint a member of the State Senate to accompany the Attorney General of Washington to assist him in the aforementioned matter."

WOODUL.

The amendment was read.

Senator DeBerry sent up the following substitute for the amendment:

Amend S. R. No. 117 by substituting for the Woodul amendment the following: strike out the following words "Be it resolved, That the Senate of the State of Texas immediately select from its own members one representative to accompany the Attorney General to Washington or to assist him in the above mentioned matter."

DeBERRY.

The substitute was read.

Senator Woodruff moved to table the amendment. The motion was lost by the following vote:

Yeas—13.

Duggan.	Sanderford.
Moore.	Small.
Neal.	Stone.
Pace.	Woodruff.
Parr.	Woodul.
Patton.	Woodward.
Regan.	

Nays—14.

Blackert.	Martin.
Collie.	Murphy.
DeBerry.	Poage.
Fellbaum.	Purl.
Holbrook.	Rawlings.
Hopkins.	Redditt.
Hornsby.	Russek.

Absent.

Greer.	Oneal.
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Absent—Excused.

Beck.	Cousins.
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The substitute was adopted by the following vote:

Yeas—14.

Blackert.	Hornsby.
Collie.	Martin.
DeBerry.	Murphy.
Fellbaum.	Poage.
Holbrook.	Purl.



Rawlings.  
Redditt.

Russek.  
Sanderford.

Nays—13.

Duggan.  
Greer.  
Moore.  
Neal.  
Pace.  
Parr.  
Patton.

Regan.  
Small.  
Stone.  
Woodruff.  
Woodul.  
Woodward.

Absent.

Hopkins.

Oneal.

Absent—Excused.

Beck.

Cousins.

#### House Bills Referred.

H. B. No. 928 read and referred to Committee on Civil Jurisprudence.

H. B. No. 83 read and referred to Committee on Penitentiaries.

H. B. No. 771 read and referred to Committee on Finance.

H. B. No. 393 read and referred to Committee on Finance.

H. B. No. 876, read and referred to Committee on Finance.

H. B. No. 821 read and referred to Committee on Finance.

#### Recess.

On motion of Senator Russek, the Senate, at 12:26 o'clock p. m., recessed until 2:30 o'clock p. m.

#### After Recess.

The Senate met at 2:30 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

#### Senate Simple Resolution No. 117.

The question recurred upon the amendment as substituted to S. S. R. No. 117.

The amendment as substituted was adopted.

Senator Purl sent up the following amendment:

Amend S. S. R. No. 117:

We again reaffirm our faith in the leadership of our great Democratic President and have implicit faith in his character and ability and are depending upon this great leader to keep our government founded on the rock of fundamental

principles founded by our fathers guaranteeing States' rights.

PURL.

Read and adopted.

Senator Martin sent up the following amendment:

Amend pending resolution by adding the following thereto: That before the said representative so selected and designated depart for Washington he shall be furnished by the Senate written instructions as to the views of this Senate and of the people of the State of Texas and of the oil industry to the end that he may know he is presenting and recommending the views of all concerned.

MARTIN.

The amendment was read.

On motion of Senator Sanderford the resolution was laid on the table subject to call.

#### H. C. R. No. 94.

The Chair laid before the Senate:

H. C. R. No. 94, Authorizing correction of H. B. No. 167.

The resolution was read.

Senator Purl sent up the following amendment:

Amend H. C. R. No. 94 by adding the following:

The enrolling clerk of the House be and is hereby specifically authorized and directed to strike from free conference report on House Bill No. 167 the following:

Subsection 1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of twelve hundred sixty dollars (\$1,260) to pay the operating expenses for the period ending December 31, 1933, of the Texas Racing Commission, hereby created, and vested with all powers required to carry out fully the purposes of this Act.

The appropriations in the said General Appropriation Bill for the State Department of Agriculture in the sum of two hundred twenty-three thousand two hundred eighty dollars (\$223,280), shall not be drawn on unless and/or until appropriation made in this amendment for the use and benefit of said Department of Agriculture shall be insufficient or unavailable for the payment of such sum so appropriated, the intent be-

ing that the specific appropriations provided for in this Act resulting from the operations of the Racing Commission shall constitute the primary source of funds for the payment of the said appropriations made for the State Department of Agriculture except such fees or special funds as may otherwise be provided for.

It is hereby expressly declared that the appropriations of any and every character as provided in this General Appropriation Bill for the maintenance of the Department of Agriculture shall be drawn against General Revenue in whole or in part if, and when funds accruing from the operation of the Racing Commission, and which have been deposited in the Treasury from such source, are insufficient, inadequate or unavailable to meet the current and necessary expenses of said Department as may be provided for by the Appropriation Bill.

The Texas Racing Commission, for which the foregoing appropriation of twelve hundred sixty dollars (\$1,260.00) is made, shall consist of three members, one of whom shall be the Commissioner of Agriculture of the State of Texas; one shall be the Tax Commissioner of the State of Texas; the third, who shall be the chairman of the Commission, shall be appointed by the Governor of the State, with the advice and consent of the Senate, and shall have been a citizen of Texas and a bona fide owner and breeder of thoroughbred live stock in Texas for a period of at least two years at the time of his appointment. Two commissioners shall constitute a quorum, with power to act.

The Commission shall establish an office at such place in Texas as it may determine. It shall select a secretary, and as many as two clerks, if necessary, who shall serve at the will of the Commission. The secretary and the said clerks shall receive such salary as is allowed by the Commission, provided, however, the secretary's salary shall not exceed two hundred dollars per month, and the clerks' not to exceed one hundred dollars per month each. The Commission shall have power to pay all reasonable and necessary expenses incident to the conducting of its business.

The Chairman shall be eligible for reappointment.

Members of the Commission shall be entitled to receive their actual expenses when the business of the Commission, and the Chairman shall in addition, receive compensation at the rate of ten dollars per day while actually engaged in the business of the Commission, such compensation, in the aggregate, not to exceed twelve hundred dollars (\$1,200) in any one twelve-month period.

A chairman shall be appointed within not exceeding thirty days from the passage of this Act, whose term of office shall be the same as the term of office of the Commissioner of Agriculture, and, thereafter, the chairman shall be so appointed as that his term of office will conform to the term of office of the Commissioner of Agriculture. In event of a vacancy in the chairmanship, arising from any cause, the Governor shall, by appointment fill such vacancy.

The Racing Commission shall have the power, and it shall be its duty, to prescribe and enforce rules, regulations, and conditions under which all horse races held under this Act shall be conducted in the State of Texas. It shall likewise prescribe and enforce rules governing the conduct of all persons who engage in the racing of horses, to the end that such race shall be fairly conducted and so as to insure integrity in the conduct of such races. The Commission shall have power to exclude from participation in such races any person or persons who omit, fail or refuse to comply with the reasonable rules promulgated by said Commission and to prescribe, as a penalty for such omission, failure or refusal, the denial of the right of such persons to so participate in such races.

The Commission shall have the power and authority to permit and to authorize the racing of horses under what is here designated the "certificate system." Under this system the Commission shall permit, authorize, and issue a license on the compliance by an applicant for a license with the requirements of this Act to conduct races and use in connection therewith the said certificate system, which shall expressly authorize and make lawful the right of a licensee to collect and receive contri-

butions of money from any person or persons present at such race toward the entry of any horse in such race selected by such person or persons to run first in such race, and the person or persons so contributing such money shall acquire an interest in the total money so contributed on all horses in the race as first winners in proportion to the amount of money contributed by such person or persons.

Such licensee shall receive the said contributions of money and issue to the contributors thereof certificates on which shall be shown the number of the race, the amount contributed and the number or name of the horse selected by such person as such first winner.

As each race is run the licensee shall be authorized to deduct from the total sum contributed on all horses as first winners ten per cent of the amount thus contributed, and the balance remaining on hand after deducting such ten per cent shall be paid out to the holders of certificates on the winning horse equally in proportion as the amount contributed by such persons bears to the total amount contributed toward the entry of all the horses in said race to run first.

Subsection 2. The licensee, in like way, may receive such contributions on horses selected to run second, third, or both, the method and procedure, and the right of the licensee, to be as specified in the next preceding section thereof.

The said certificate system as herein authorized shall not be construed to be either pool selling or betting within the meaning of Articles 645, 647, and 648, of the Penal Code of the State of Texas, Title 2, Chapter VI, according to the 1925 Revision.

Subsection 3. The use of such system shall not be permitted at any other place than within the enclosure stated in the license, nor shall the said certificate system be permitted to be used on any races except horse races.

No such certificate shall be purchased by or sold to a minor.

Races authorized under this Act may be held only between the hours of 9:00 a. m. and 7:00 p. m. of the racing days fixed by the Commission.

No license shall be issued to any

one applicant for the holding of more than two meetings in any calendar year, nor on more than one race course, nor for more than sixty-one racing days in the aggregate in any twelve months period. No person shall receive a license except upon satisfactory showing made to the Commission that such person has adequate facilities for the conducting of such races, and is of good standing; and such person so applying shall give bond payable to the Racing Commission, with good security, in such amount as the Commission shall determine, not, however, to exceed the sum of fifty thousand dollars (\$50,000), to be approved by the Commission, conditioned, in effect, that such applicant will conduct such races and the operation of such certificate system as contemplated by this law in accordance with this Act, and shall account to and pay over to the State Treasurer of the State of Texas the amounts required by this Act to be so paid.

Subsection 4. The Racing Commission may designate a representative, whose compensation shall not exceed twenty dollars (\$20) per day, and reasonable expenses when on the business of the Commission, to attend any horse race meeting licensed under this Act, whose duty it shall be to supervise the conducting of such races and to see to it that the rules of the Commission are faithfully enforced. He shall have full and free access to the place or enclosure where the certificate system is conducted or supervised; and for the purpose of ascertaining whether or not the licensee is retaining only the commission provided for in this Act, he shall have access to the books, records and papers pertaining to the operation and the results of the said certificate system at such races. A licensee shall keep true and correct records, which shall show all financial operation of said certificate system at such races.

Subsection 5. Any person or persons, association or corporation desiring to conduct racing of horses in Texas and to use in connection therewith the said certificate system, as in this Act authorized, shall make application in writing to the Racing Commission for a license so to do.

The application shall be considered and acted upon by the Commission not less than ten days prior to the date of the commencement of such races so sought to be held. The application shall state the days on which such racing is desired to be conducted; it shall describe the place and race track or course at which the races are to be conducted; it shall be in such form and supply such facts as the Commission shall, by general rule, prescribe, and such application shall be verified. If the applicant is eligible to receive a license under the provisions of this law, it shall be the duty of the Racing Commission to fix the racing days that shall be allotted to such applicant, and the Commission shall issue a license for the holding of the meeting or meetings so sought to be held. The license issued shall describe the place and track or race course at which the licensee is authorized to hold such meeting or meetings, and the authority conferred in any one license shall be limited to the calendar year in which it is issued. The license issued shall expressly provide that the licensee shall remit to the Treasurer of the State of Texas, at the end of each race meeting, eight per cent of the total of all moneys retained as commission or compensation by the licensee, as authorized by this Act. This fund, when received by the Treasurer, shall be held by him as a "Special Racing Fund."

Except as to the foregoing twelve hundred sixty dollars (\$1,260), by Section 1 hereof, appropriated to the Racing Commission, the expenses incurred and authorized by virtue of this feature of this Act shall be payable out of the "Special Racing Fund," but not otherwise, and so paid upon accounts approved by the Racing Commission and warrants drawn by the Comptroller on the State Treasurer.

The Treasurer of the State of Texas, in December of each year, shall make a complete statement of the amount he has received within the calendar year under the provisions of this Act. After there shall have been charged against this fund the theretofore paid out operating expenses of the Racing Commission, as herein authorized, and the

amount which the Racing Commission shall estimate as being required to be paid out in that year, and, in addition thereto, such amount as the said Racing Commission shall estimate as the expenses for the operating of the Commission for the next succeeding calendar year, the amount then remaining in this fund shall be, and it is hereby appropriated and shall be disbursed thus:

An amount equal to twenty-five per cent of the total amount which the Treasurer shall receive and place in the said "Special Racing Fund" is hereby appropriated as a fund out of which the Commissioner of Agriculture of the State of Texas is authorized and empowered to purchase, transport, and deliver for distribution well-bred and approved stallions and jacks throughout the State of Texas, and, in connection therewith, defray the actual reasonable expenses incident to the purchase, transportation and maintenance of such animals, in order thereby to promote the breeding of better live stock in the State of Texas. After the said operating expenses of the Commission shall have been defrayed and after the said amount equal to twenty-five per cent of said fund shall have been deducted from the said "Special Racing Fund," the balance remaining in said fund, so far as it may be required, shall be used for the payment of the appropriations by the Legislature for the support and maintenance of the State Department of Agriculture as said appropriations for that department shall be fixed and allowed by the Legislature of the State of Texas from time to time. It is further provided that any excess left in the "Special Racing Fund" shall be by the State Treasurer divided into as many equal parts as there are counties in the State of Texas, and he shall thereupon immediately remit one of such equal parts to the county treasurer of each county in the State of Texas, who shall pay the same into such lawful fund or funds of said county as shall be determined by the commissioners court of said county.

Subsection 6. The payments herein required to be made by the licensee to the Treasurer of the State of Texas shall be in lieu of all other or further excise or occupation taxes to the State of Texas or any

county, city, town, or political subdivision thereof.

Subsection 7. The titles of such animals so purchased shall be in the State of Texas.

For the service of such animals so distributed, the Commissioner of Agriculture is authorized to make a charge of not exceeding five dollars (\$5.00) for colts foaled. The amounts so collected by the Commissioner of Agriculture shall be used by him to defray the expense incident to the maintenance of such animals.

The Commissioner of Agriculture shall adopt and carry out reasonable rules and regulations with respect to the distribution, care, use and maintenance of such animals. All expenditures thus authorized shall be paid upon accounts approved by the Commissioner of Agriculture, and warrants drawn by the Comptroller on the State Treasurer.

In allotting or distributing said stallions and jacks, the Commissioner of Agriculture shall request and give consideration to the recommendations of the commissioners courts and of the members of the Legislature of the particular counties seeking the distribution of such animals.

The Commissioner of Agriculture annually, not later than November 1st, shall make and file with the Governor a report in writing which shall set forth the amounts of the funds disbursed in detail, the way in which disbursement was made and the amount collected by him as service charge on such animals.

Subsection 8. Any person or persons, corporation or association who shall operate the said certificate system on the racing of horses, except when licensed under the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one thousand dollars (\$1000), nor more than five thousand dollars (\$5000) for each day of such unauthorized use.

Subsection 9. In event any licensee shall intentionally violate any provision of this Act or any rule promulgated by the Racing Commission, the Commission shall have the power, on reasonable notice to the licensee, and after giving such licensee an opportunity to be heard,

to cancel such license. In event of such cancellation, the licensee shall not be eligible to receive another license within a period of twelve months from the date of such cancellation.

In event any such licensee shall be dissatisfied with the decision of the Commission, he shall have the right to have said decision of the Commission reviewed by the district court of the county where such licensee was authorized to conduct such racing under the same procedure as is now applicable to a review by the district court of an order of the Railroad Commission of Texas.

Subsection 10. Nothing in this Act shall be construed to apply to the racing of horses when the operation of the certificate system of racing is not used in connection with such racing.

PURL.  
POAGE.

The amendment was read.

Senator Rawlings raised the following points of order:

(1) That this matter had previously been acted upon and a motion to reconsider had been tabled.

(2) That a conference committee report could not be amended by resolution.

The Chair, Lieutenant Governor Edgar E. Witt, held that the only changes in the bill that could be made by resolution were corrections of typographical or clerical errors.

The resolution was adopted by the following vote:

Yeas—22.

Blackert.	Patton.
DeBerry.	Poage.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hornsby.	Regan.
Martin.	Russek.
Moore.	Sanderford.
Murphy.	Small.
Oneal.	Stone.
Pace.	Woodul.
Parr.	Woodward.

Nays—2.

Collie.	Purl.
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Absent.

Fellbaum.	Neal.
Greer.	Woodruff.
Hopkins.	

**Absent—Excused.**

Beck.

Cousins.

**S. J. R. No. 28.**

The Chair laid before the Senate, on its second reading, the following resolution:

By Senator Hornsby:

S. J. R. No. 28, Proposing an amendment to the Constitution of the State of Texas by amending Article 3, by adding thereto Section 50a and Section 50b so as to permit the State to assume the indebtedness of counties, cities, towns, districts and municipalities of the State, authorized and/or existing prior to January 1, 1933, and evidenced by bonds or interest bearing time warrants, and authorizing the issuance of State bonds to be exchanged for such bonds and warrants of such counties, cities, towns, districts and municipalities; providing the maximum rate of interest of such State bonds; authorizing the Governor to appoint a Board of Municipal Indebtedness consisting of three members, and prescribing the qualifications, powers, duties, term of office and method of removal of such members; authorizing and directing the levying of a sales tax to retire such State bonds; and releasing certain delinquent taxes heretofore levied by and due to such counties, cities, towns, districts and municipalities for the retirement of bonds and warrants; providing that the sinking funds of bonds and warrants of counties, cities, towns, districts and municipalities shall be deposited to the credit of the sinking fund of State bonds and limiting the taxing power and capacity to incur indebtedness of such counties, cities, towns, districts and municipalities; providing that the Legislature shall have no authority to levy State ad valorem taxes, and authorizing the levying of a sales tax in lieu thereof; and releasing all delinquent State ad valorem taxes upon certain conditions.

The resolution was read.

Senator Hornsby sent up the following amendment:

Amend S. J. R. No. 28, line 50, by inserting after the word "bonds," the following:

"Provided that all counties with a per capita debt of \$125.00 or less, as of January 1, 1933, shall be en-

titled to a refund of a portion of the sales tax collected in such counties to provide for interest and sinking fund for the payment of the State bonds, on the following basis: Counties having a per capita debt of \$2.50 or less shall be entitled to receive a refund of 50% of the sales tax collected in such counties, and for each \$2.50 additional debt the per centage shall be decreased 1%; provided that no county shall be entitled to receive an amount which added to the per capita debt will exceed \$125.00 per capita.

HORNSBY.

Read and adopted.

The resolution failed to pass to engrossment by the following vote:

Yeas—3.

Hornsby.  
Parr.

Sanderford.

Nays—23.

Blackert.  
Collie.  
DeBerry.  
Duggan.  
Fellbaum.  
Greer.  
Holbrook.  
Martin.  
Moore.  
Murphy.  
Oneal.  
Pace.

Patton.  
Poage.  
Purl.  
Rawlings.  
Redditt.  
Regan.  
Russek.  
Small.  
Stone.  
Woodul.  
Woodward.

Present—Not Voting.

Neal.

Absent.

Hopkins.

Woodruff.

Absent—Excused.

Beck.

Cousins.

**Message From the House.**

Hall of the House of Representatives,  
Austin, Texas, May 22, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on S. B. No. 429, by a vote of 109 yeas and 2 nays.

The House has concurred in Senate amendments to H. B. No. 599, by a vote of 104 yeas and 0 nays.

The House has passed the following bill:

H. B. No. 733, A bill to be entitled "An Act defining common carrier pipelines engaged, or to engage in, the transportation of natural gas; declaring all corporations, persons, partnerships, or associations of persons, now engaged, or to hereafter engage, in transporting natural gas from place to place in this State, to be common carriers, declaring such common carriers to be public utilities and making them subject to the provisions of this Act; giving the Railroad Commission of Texas the power to regulate the rate of such transportation by such common carriers; granting them the right to establish, maintain, and operate telegraph and telephone lines upon their rights of way in connection with their business, and to build and maintain their lines under and across or along streams, highways, and streets, as other common carriers within this State; etc., and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Bill Referred.

H. B. No. 733, referred to Committee on State Affairs.

#### S. C. R. No. 71.

Senator Small called up from the table:

S. C. R. No. 71, Setting sine die adjournment for May 30, 1933.

The resolution was adopted by the following vote:

#### Yeas—16.

Blackert.	Poage.
Collie.	Purl.
DeBerry.	Rawlings.
Duggan.	Redditt.
Fellbaum.	Regan.
Murphy.	Russek.
Neal.	Small.
Patton.	Stone.

#### Nays—9.

Greer.	Parr.
Holbrook.	Sanderford.
Hornsby.	Woodul.
Oneal.	Woodward.
Pace.	

#### Absent

Hopkins.	Moore.
Martin.	Woodruff.

Absent—Excused.

Beck.

Cousins.

#### House Bill No. 70.

The Chair laid before the Senate on its second reading, as special order, the following bill:

By Mr. Lemens:

H. B. No. 70, A bill to be entitled "An Act to amend Article 904, Penal Code of the State of Texas, 1925, relating to fees for hunting by a resident of this State hunting outside of the county of his residence, and to non-residents and aliens hunting in this State, fixing the fees for same; providing for the issuance of such licenses; etc."

Read second time.

The two committee amendments were adopted.

Senator Oneal sent up the following amendment:

Amend H. B. No. 70, as amended, by striking out of Section 1 the following:

"Three (\$3.00) dollars"  
and inserting in lieu thereof the following:

"Two (\$2.00) dollars."

ONEAL.

The amendment was read.

Senator Redditt moved to table the amendment. The motion prevailed by the following vote:

#### Yeas—13.

Collie.	Patton.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hornsby.	Russek.
Neal.	Stone.
Pace.	

#### Nays—8.

Blackert.	Parr.
DeBerry.	Poage.
Murphy.	Purl.
Oneal.	Sanderford.

#### Absent.

Duggan.	Small.
Hopkins.	Woodruff.
Martin.	Woodward.
Moore.	

Absent—Excused.

Cousins.

(Pair Recorded.)

Senator Woodul (present) who would vote yea, with Senator Beck (absent) who would vote nay.

Senator Oneal sent up the following amendment:

Amend H. B. No. 70, as amended, by striking out of Section No. 1 the words and figures "five (\$5.00) dollars" and inserting in lieu thereof the following: "twelve and one-half (\$12.50) dollars."

ONEAL.

Read and adopted.

Senator Blackert sent up the following amendment:

Amend Committee Amendment No. 1 to H. B. No. 70, by striking out all of Section 2 and inserting in lieu thereof the following:

Sec. 2. It shall be unlawful for any resident of this State to take, catch, or attempt to take or catch, any fish with artificial lure without first having procured a resident angler's license, for which license he shall have paid the sum of one dollar and 10 cents (\$1.10), provided that a resident angler's license shall not be required of those who fish in any waters of the State with natural bait, and provided, further, that a resident angler's license shall not be required of a resident of Texas who holds a license for commercial fishing under Article 4032, Revised Civil Statutes of 1925.

BLACKERT,  
DeBERRY.

The amendment was read.

Senator Redditt moved to table the amendment. The motion prevailed by the following vote:

Yeas—13.

Collie.	Redditt.
Greer.	Regan.
Holbrook.	Russek.
Hornsby.	Small.
Moore.	Stone.
Pace.	Woodward.
Patton.	

Nays—9.

Blackert.	Neal.
DeBerry.	Poage.
Fellbaum.	Purl.
Martin.	Sanderford.
Murphy.	

Absent.

Duggan.  
Hopkins.  
Oneal.Parr.  
Rawlings.  
Woodruff.

Absent—Excused.

Cousins.

(Pair Recorded.)

Senator Woodul (present) who would vote yea, with Senator Beck (absent) who would vote nay.

Senator Redditt sent up the following amendments:

Amend Committee Amendment No. 1 to H. B. No. 70, by adding after the word "dollars" in line 54, page 4, of the printed bill, the following:

"provided that no hunting license shall be required of any citizen of this State under the age of seventeen (17) years."

REDDITT.

Read and adopted.

Amend the Committee Amendment No. 1 to H. B. No. 70, by striking out all of Section 2 and substituting in lieu thereof, the following:

"Sec. 2. It shall be unlawful for any resident of this State to take, catch, or attempt to take or catch any fish with artificial lure, or to take, catch, or attempt to take or catch any fish outside of the county of his residence without first having procured a resident angler's license and for which license he shall have paid the sum of one dollar and ten cents (\$1.10); provided that a resident angler's license shall not be required of any citizen of this State under the age of seventeen (17) years, or of any citizen fishing in a stream bordering the county of his residence; and provided further that a resident angler's license shall not be required of a resident citizen of this State who holds a license for commercial fishing under Article 4032, Revised Civil Statutes of Texas, 1925, so long as he does only commercial fishing."

REDDITT.

The amendment was read.

Senator DeBerry sent up the following substitute for the amendment:

Amend H. B. No. 70, as amended, by striking out the following words: "or to take, catch or attempt to



take or catch any fish."—line 9 and 10, page 5, Section 2.

DeBERRY,  
BLACKERT.

The substitute was read.

Senator Redditt raised the point of order that the Senate had previously acted adversely on this matter.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order.

Senator Holbrook moved to table the substitute. The motion prevailed by the following vote:

Yeas—14.

Collie.	Parr.
Greer.	Redditt.
Holbrook.	Regan.
Hornsby.	Russek.
Moore.	Small.
Oneal.	Stone.
Pace.	Woodward.

Nays—8.

Blackert.	Neal.
DeBerry.	Poage.
Fellbaum.	Purl.
Murphy.	Rawlings.

Present—Not Voting.

Martin.

Absent.

Duggan.	Patton.
Hopkins.	Woodruff.

(Pairs Recorded.)

Senator Sanderford (present) who would vote nay, with Senator Cousins (absent) who would vote yea.

Senator Woodul (present) who would vote yea, with Senator Beck (absent) who would vote nay.

The amendment (by Senator Redditt) was adopted.

Senator Purl sent up the following amendments:

Amend H. B. No. 70, by adding thereto the following:

"Amend Chapter 118, Section 3, General and Special Laws of the Regular Session of the Forty-first Legislature so that the same shall hereafter read as follows:

"Sec. 3. Said Game, Fish and Oyster Commission shall hold regularly quarterly meetings in January, April, July and October of each year on

dates to be specified by the Commission and may hold such special meetings at such times and places as said Commission may deem necessary and proper. It shall require four members or the chairman and three members of said Commission to constitute a quorum.'"

PURL,  
POAGE.

Read and adopted.

Amend H. B. No. 70 by amending the caption to conform with the body of the bill.

PURL,  
POAGE.

Read and adopted.

Senator DeBerry sent up the following amendment:

Amend H. B. No. 70 by adding the following at the end of Section 1, provided that no hunting license shall be required of any person of this State when hunting squirrels or rabbits.

DeBERRY.

Read and adopted.

Senator Redditt sent up the following amendment:

Amend H. B. No. 70, by adding Section ... as follows:

"Sec. ... If any of the sections, clauses or any provisions of this Act or of any other Act referred to by this Act shall be held to be unconstitutional, or otherwise invalid or unenforceable, such holding shall not have the effect of nullifying or in anywise affecting the remainder of this Act and the parts of this Act not so held to be unconstitutional or invalid shall remain in full force and effect."

REDDITT.

Read and adopted.

The bill was passed to third reading by the following vote:

Yeas—18.

Collie.	Parr.
Greer.	Patton.
Holbrook.	Purl.
Hornsby.	Redditt.
Moore.	Regan.
Murphy.	Russek.
Neal.	Small.
Oneal.	Stone.
Pace.	Woodward.

## Nays—6.

Blackert.  
DeBerry.  
Fellbaum.

Poage.  
Rawlings.  
Woodruff.

## Absent.

Duggan.  
Hopkins.

Martin.

## (Pairs Recorded.)

Senator Sanderford (present) who would vote nay, with Senator Cousins (absent) who would vote yea.

Senator Woodul (present) who would vote yea, with Senator Beck (absent) who would vote nay.

On motion of Senator Redditt the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 70 was put on its third reading and final passage by the following vote:

## Yeas—20.

Collie.  
Duggan.  
Greer.  
Holbrook.  
Hornsby.  
Moore.  
Murphy.  
Neal.  
Oneal.  
Pace.

Parr.  
Patton.  
Purl.  
Redditt.  
Regan.  
Russek.  
Small.  
Stone.  
Woodul.  
Woodward.

## Nays—5.

Blackert.  
DeBerry.  
Fellbaum.

Poage.  
Rawlings.

## Absent.

Hopkins.  
Martin.

Sanderford.  
Woodruff.

## Absent—Excused.

Beck.

Cousins.

Read third time and finally passed by the following vote:

## Yeas—20.

Collie.  
Duggan.  
Greer.  
Holbrook.  
Hornsby.  
Martin.  
Moore.

Murphy.  
Neal.  
Oneal.  
Pace.  
Parr.  
Patton.  
Purl.

Redditt.  
Regan.  
Russek.

Small.  
Stone.  
Woodward.

## Nays—5.

Blackert.  
DeBerry.  
Fellbaum.

Poage.  
Rawlings.

## Absent.

Hopkins.  
Sanderford.

Woodruff.

## Absent—Excused.

Cousins.

## (Pair Recorded.)

Senator Woodul (present) who would vote yea, with Senator Beck (absent) who would vote nay.

## Senate Bill No. 566.

The Chair laid before the Senate by unanimous consent the following bill:

By Senator Purl:

S. B. No. 566, Relative to the acquiring of land for public parks and playgrounds by cities, etc., and declaring an emergency.

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

On motion of Senator Purl the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 566 was put on its second reading by the following vote:

## Yeas—28.

Blackert.  
Collie.  
DeBerry.  
Duggan.  
Fellbaum.  
Greer.  
Holbrook.  
Hornsby.  
Martin.  
Moore.  
Murphy.  
Neal.  
Oneal.  
Pace.

Parr.  
Patton.  
Poage.  
Purl.  
Rawlings.  
Redditt.  
Regan.  
Russek.  
Sanderford.  
Small.  
Stone.  
Woodruff.  
Woodul.  
Woodward.

## Absent.

Hopkins.

## Absent—Excused.

Beck. Cousins.

The bill was read second time and passed to engrossment.

On motion of Senator Purl the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 566 was put on its third reading and final passage by the following vote:

## Yeas—29.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

## Absent—Excused.

Peck. Cousins.

Read third time and finally passed by the following vote:

## Yeas—27.

Blackert.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hornsby.	Russek.
Martin.	Sanderford.
Moore.	Small.
Murphy.	Stone.
Neal.	Woodruff.
Oneal.	Woodul.
Pace.	Woodward.
Parr.	

## Nays—1.

Collie.

## Absent.

Hopkins.

## Absent—Excused.

Beck. Cousins.

## Senate Bill No. 62.

Senator Fellbaum asked unanimous consent to take up out of its regular order S. B. No. 62.

## Objection was heard.

Senator Fellbaum moved to suspend the regular order of business and take up S. B. No. 62. The motion prevailed by the following vote:

## Yeas—18.

Blackert.	Parr.
Collie.	Rawlings.
Duggan.	Redditt.
Fellbaum.	Regan.
Greer.	Small.
Holbrook.	Stone.
Hornsby.	Woodruff.
Oneal.	Woodul.
Pace.	Woodward.

## Nays—7.

DeBerry.	Patton.
Moore.	Poage.
Murphy.	Russek.
Neal.	

## Present—Not Voting.

Martin.

## Absent.

Hopkins.	Sanderford.
Purl.	

## Absent—Excused.

Beck. Cousins.

The Chair laid before the Senate on its second reading the following bill:

## By Senator Woodward:

S. B. No. 62, A bill to be entitled "An Act defining the meaning of practicing law and prohibiting corporations and all other persons or associations from practicing law in Texas except licensed attorneys of the Bar of Texas and providing penalties for violation of this Act, and making any agreement in violation of this Act illegal and unenforceable, and prohibiting the recovery of any compensation rendered in violation of this Act and making all persons, corporations, and association of persons violating this Act liable for loss, damage, or injury to any person, corporation, or association of persons without showing that said loss was due to negligence; and declaring an emergency."

## Read second time.

The committee substitute was adopted.

The bill was passed to engrossment.

On motion of Senator Fellbaum the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 62 was put on its third reading and final passage by the following vote:

## Yeas—29.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

## Absent—Excused.

Beck. Cousins.

Read third time and finally passed by the following vote:

## Yeas—22.

Fellbaum.	Purl.
Greer.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Russek.
Martin.	Sanderford.
Moore.	Small.
Neal.	Stone.
Oneal.	Woodruff.
Parr.	Woodul.
Patton.	Woodward.

## Nays—5.

Collie.	Pace.
DeBerry.	Poage.
Murphy.	

## Absent.

Blackert. Duggan.

## Absent—Excused.

Beck. Cousins.

## Senate Bill No. 513.

The Chair laid before the Senate on its second reading by unanimous consent the following bill:

By Senator Oneal:

S. B. No. 513, A bill to be entitled "An Act providing for the transfer of the lien for taxes that the State, county or defined subdivision thereof, has upon any real property; providing by whom and under what conditions such transfer may be made; providing for the recording of such transfer, and the effect of such record; providing for paying by lienholder to person paying such taxes the taxes, cost, and interest, and receiving transfer to himself of the tax lien; providing for foreclosure of lien and sale and disposition of proceeds of sale; providing for redemptions from foreclosure sale; providing this Act shall not abridge the right of taxpayer to enter into contract with lienholders for payment of taxes, nor affect existing contracts; providing that if any provision of this Act is declared invalid or unconstitutional it shall not affect any other provision of this Act; and declaring an emergency."

Read second time.

Senator Oneal sent up the following amendments:

Amend S. B. No. 513 by adding between the words "interest" and "and" in line 44, page 2 of the printed bill, the words:

"and attorney's fees not exceeding ten per centum (10%) as may be fixed in the judgment."

ONEAL.

Read and adopted.

Amend S. B. No. 513 by striking out of Section 10 the word "offset" and inserting in lieu thereof the word "affect."

ONEAL.

Read and adopted.

The bill was passed to engrossment.

On motion of Senator Oneal the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 513 was put on its third reading and final passage by the following vote:

## Yeas—28.

Collie.	Holbrook.
DeBerry.	Hopkins.
Duggan.	Hornsby.
Fellbaum.	Martin.
Greer.	Moore.

Murphy.	Redditt.
Neal.	Regan.
Oneal.	Russek.
Pace.	Sanderford.
Parr.	Small.
Patton.	Stone.
Poage.	Woodruff.
Purl.	Woodul.
Rawlings.	Woodward.

Absent.

Blackert.

Absent—Excused.

Beck. Cousins.

Read third time and finally passed  
by the following vote:

Yeas—26.

Collie.	Parr.
Duggan.	Patton.
Fellbaum.	Poage.
Greer.	Purl.
Holbrook.	Rawlings.
Hopkins.	Redditt.
Hornsby.	Regan.
Martin.	Russek.
Moore.	Sanderford.
Murphy.	Small.
Neal.	Stone.
Oneal.	Woodruff.
Pace.	Woodward.

Nays—2.

DeBerry. Woodul.

Absent.

Blackert.

Absent—Excused.

Beck. Cousins.

### Free Conference Report.

Senator Poage sent up the follow-  
ing, Free Conference Committee re-  
port:

Committee Room,

Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the  
Senate.Hon. Coke R. Stevenson, Speaker of  
the House of Representatives.

Sirs: We, your Conference Com-  
mittee, appointed to adjust the dif-  
ferences between the two Houses on  
S. B. No. 551 have considered the  
same, and recommend that the bill  
do pass as passed by the Senate  
with the following amendment:

"Amend S. B. No. 551, Section 1,  
on page 2, line 26, by inserting a  
new sentence after the end of the  
sentence ending in line 26 as fol-  
lows:

"No warrant drawn on the State  
Treasury shall be accepted as col-  
lateral, unless said warrants are  
accompanied by affidavits, sworn to  
by some officer of the bank offering  
said warrants, which said affidavits  
shall affirm that none of the war-  
rants offered as collateral security  
were transferred or assigned by the  
original payees of said warrants or  
any of them for a less consideration  
than ninety-eight per cent (98%)  
of the face value of said warrants,  
and that none of such warrants  
were obtained from the original  
payees by loaning money thereon at  
a rate of interest greater than six  
(6%) per cent per annum.'"

POAGE,  
PURL,  
RUSSEK,  
MOORE,

On part of the Senate.

ENGLEHARD,  
MOORE,  
PALMER,  
PARKHOUSE,  
HODGES.

On part of the House.

Read and adopted by the follow-  
ing vote:

Yeas—29.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

Absent—Excused.

Beck. Cousins.

### Senate Bill No. 130.

The Chair laid before the Senate  
on its second reading by unanimous  
consent the following bill:

By Senator Small:

S. B. No. 130, A bill to be entitled "An Act fixing the number and length of terms of district courts in Texas and prescribing rules of practice and procedure by specifying the requisites of citations issued out of district courts; specifying the manner and time for serving citations and making returns thereof, making demands for juries and payment and amount of jury fees; governing the assessment of damages in uncontested cases on liquidated and unliquidated claims; etc., and declaring an emergency."

Read second time.

Senator Small sent up the following amendments:

Amend S. B. No. 130 by striking out all above the enacting clause and inserting in lieu thereof the following:

#### A BILL

##### To Be Entitled

An Act fixing the number and length of terms of all District Courts in Texas having civil or civil and criminal jurisdiction, save and except those courts now or hereafter governed by Article 2092 Revised Civil Statutes and prescribing rules of practice and procedure to be followed in such courts; specifying the contents of citations, notices to non-residents, and citations by publication and prescribing the time for the service and return of such process; specifying the time for appearance and answer in such district courts and prescribing rules for amending pleadings, setting cases, filing pleas of privilege, service and return of writs of garnishment, sequestration and attachment; providing and specifying time for filing motions for new trial and for action thereon; providing for the selection of juries, the demand for juries, payment of jury fees, filing of appeal bonds, writ of error bonds, statement of facts, transcript and bills of exception; repealing all laws in conflict, and declaring an emergency.

SMALL.

Read and adopted.

Amend S. B. No. 130 by striking out all below the enacting clause

and inserting in lieu thereof the following:

Section 1. The following rules of practice and procedure shall govern and be followed in all district courts having civil or both civil and criminal jurisdiction, save and except those courts now or hereafter governed by Article 2092, Revised Civil Statutes.

Sec. 2. Each judge of the district courts shall hold a regular term of his court at the county seat of each county in his district twice each year and such additional terms as have been prescribed by law. Each term of court in every county of the State shall begin on the day now fixed by law for holding district court in said county and shall end on the Saturday immediately preceding the Monday for convening the next regular term of such court in said county. Any term of court may be divided into as many sessions as the judge thereof may deem expedient for the dispatch of business.

Sec. 3. (1) Issuance of Process. When a petition is filed with the clerk of any such district court, he shall promptly issue process commanding all defendants to appear and answer as herein provided. To all defendants alleged to reside or be within the State of Texas, he shall issue a citation. Where the petition reveals that a defendant is absent from the State or is a non-resident of the State, the clerk, upon oral application of any party, plaintiff, in person or by his agent or attorney, shall issue a notice to such defendant which notice shall be known as Notice to Non-resident Defendant. Upon written application verified by a plaintiff, or his agent or attorney, showing that any party defendant is a non-resident of the State, or that he is absent from the State, or that he is a transient person, or that his residence is unknown to affiant, the clerk shall issue a citation by publication. A citation by publication shall also issue on petitions filed wherein a claim is asserted to property that has been granted or that has accrued to heirs as such, of any deceased person, and in suits filed wherein a claim is made against the stockholders of a defunct corporation when the plaintiff or his agent or attorney makes

verified application therefor showing that the names of such heirs or stockholders are unknown to affiant, and in such cases the citation shall be for the heirs of the deceased person or for the unknown stockholders, as well as for the heirs and legal representatives of such heirs and unknown stockholders.

(2) a. Requisites of Process. A citation issued out of such district court shall be directed to the sheriff or any constable of the county where the defendant is alleged to reside or be, provided, that if the sheriff is a party or is interested in the suit, all citations to be served in the county of the sheriff's residence shall be addressed to the constable of such county. A citation shall command the sheriff or constable to summons the defendant to appear and answer the plaintiff's petition in the court from which it is issued at the court house of the county where the suit is pending at or before 10 o'clock A. M., on Monday next following the expiration of thirty-five days from the date the citation is issued. It shall state the date of filing of the petition, its file number, the names of all parties, the nature of plaintiff's demand, and shall bear an endorsement showing when answer is due and shall be dated and attested by the clerk with the seal of the court impressed thereon. If the citation is to be served without the county in which the suit is pending, a certified copy of plaintiff's petition shall accompany such citation, and in all cases where a certified copy of plaintiff's petition accompanies the citation, the nature of plaintiff's demand need not be stated in the body of such citation.

b. Notice to non-resident defendants shall be directed to the defendant for whom such notice is requested. A notice to be served within the United States shall command such defendant to appear and answer plaintiff's petition in the court from which it is issued at the court house of the county in which the suit is pending at or before 10 o'clock A. M., on Monday next following the expiration of forty days from the date the citation is issued. Notices to be served outside of the United States shall command the

defendant to appear and answer in the court from which it was issued at the court house of the county where the suit is pending at or before 10 o'clock A. M., on Monday after the expiration of thirty days after the date of service. Every notice to non-resident defendants shall state the date of the filing of the petition, the file number of the suit, the names of all parties, and shall be accompanied by a certified copy of plaintiff's petition. It shall be dated, attested by the clerk with seal of the court impressed thereon, and shall bear an endorsement showing when answer is due.

c. A citation by publication shall be addressed to the sheriff or any constable of the county in which the suit is pending except in cases involving the title to land, all of which is located outside of such county, and in all such cases, the citation shall be addressed to the sheriff of the county where such land or any part thereof is located. Such citation shall state the number of the suit, the names of all parties, the date on which the suit is filed, and shall command the defendants to appear and answer plaintiff's petition in the court from which it is issued at the court house where the suit is pending at ten o'clock A. M., on the first Monday after the expiration of forty-five days from the date such citation is issued. The details and particulars of the cause of action need not be stated in the citation by publication and it shall be sufficient if it makes a brief statement of the nature of the cause of action and of any special pleas relied upon in the suit. If land is involved, the same shall be described in such a manner as to identify it upon the ground. In all suits involving land, citation shall be published in the county where the land or any part thereof is situated, but if there is no newspaper published in said county, then in the county nearest that wherein the land or any part thereof is situated.

(3) The officer to whom a citation or a citation by publication is delivered, shall endorse thereon the day and hour on which he receives it and shall execute same without delay. A citation shall be executed and returned within twenty days

after the date of issuance. A citation by publication shall be executed within ten days and returned within forty-five days after the date of issue. The manner of serving and making returns of citations and citations by publication shall be the same as now provided by law.

(4) Notice to non-residents may be served by any disinterested person competent to make oath of the fact, by delivering to the defendant in person a true copy of such notice together with a certified copy of plaintiff's petition. The return of service in such cases shall be endorsed on or attached to the original notice and shall state when it was served and the manner of service and be signed and sworn to by the party making such service before some officer authorized by law of this State to make affidavits under the hand and seal of such officer. A defendant served with such notice shall be required to appear and answer in the same manner and under the same penalties as if he had been personally served with a citation within this State. Such notice shall be returned to the court from which it was issued within twenty days after the date of such notice, provided, that if the notice is to be served on any defendant or party in any foreign country, it shall be made returnable to any such time as the plaintiff or person procuring its issuance shall direct, which shall be not less than twenty nor more than one hundred twenty days after the date of issue.

(5) Citations, Notices to Non-residents, and citations by publication shall be served in the manner and upon the persons, officers and parties now provided by law before the return date thereof, and every defendant shall be required to plead on or before the date specified in the citation for appearance and answer; otherwise the demand and allegations of plaintiff will be taken as confessed.

(6) Where citation or service is quashed on motion of the defendant, such defendant shall be deemed to have entered his appearance at 10 o'clock A. M., on the Monday next after the expiration of twenty days after the day on which the citation or service is quashed, and such de-

fendant shall be deemed to have been duly served so as to require him to appear and answer at that time, and if he fails to do so, judgment by default may be rendered against him.

(7) Writs of Attachment and Sequestration. Writs of attachment and sequestration shall be executed at any time after issuance and before they are returnable, but it shall be the duty of the officer to execute such writs promptly. Every writ shall be made returnable on or before 10 o'clock A. M., of the Monday next after the expiration of fifteen days from the issuance of the writ, and the officer executing the writ shall return the same at or before that time with his action endorsed therein or attached thereto, signed by him officially, showing how he has executed the writ.

(8) Writs of Garnishment. Writs of garnishment shall be executed at any time after issuance and before they are returnable, but it shall be the duty of the officer to execute such writ promptly, and every such writ shall command the officer to summon the garnishee to appear at or before 10 o'clock A. M., of the Monday next following the expiration of thirty-five days from the date the writ was issued and the writ shall specify when and where the garnishee is required to answer, and the officer receiving the writ of garnishment shall within fifteen days after the issuance of the writ make his return showing how he has executed the writ.

(9) Failure of Garnishee to Answer. If the garnishee fails to make answer to the writ on or before 10 o'clock A. M., of the Monday next following the expiration of thirty-five days from the date of the writ, he shall be in default and it shall be lawful for the court, at any time after judgment shall have been rendered against the defendant, to render judgment by default against such garnishee for the full amount of such judgment against the defendant, with all accruing interest and costs. The plaintiff in garnishment shall have fifteen days after the garnishee's answer is filed within which to controvert the same if he so desires.

(10) Other Writs and Process.



All other writs and process not expressly otherwise provided for in this Article and which under the general law are now returnable to the first day of the next term of court after the issuance thereof, and which require the defendant or person served to appear on the first day of the next succeeding term, shall be returnable fifteen days after the date thereof and shall be executed and returned at or before the expiration of fifteen days from the date thereof and shall require the defendant or party served to appear and answer at or before 10 o'clock A. M., of the Monday next after the expiration of thirty-five days after such writ or process was issued, and all such writs or process shall so specify.

(11) **Appealed Cases.** In cases appealed to said district courts from inferior courts, the appeal, including transcript, shall be filed in the district court within twenty days after the order appealed from has become final, and the appellee shall enter his appearance on the docket or answer to said appeal on or before 10 o'clock A. M., of the Monday next after the expiration of twenty days from the date the appeal is filed in the district court.

(12) **Amended Pleadings.** Whenever any party files a pleading of any character, he shall at the same time either deliver to the adverse party or deposit with the clerk for the adverse party, a copy of such pleading, which copy shall not be filed by the clerk. All filed pleadings shall remain at all times in the clerk's office or in the court or in custody of the clerk, except that the court may by order entered on the minutes allow a filed pleading to be withdrawn for a limited time whenever necessary on leaving a certified copy on file. The party withdrawing such pleading shall pay the costs of such order and certified copy.

(13) **Where more than one adverse party.** If there is more than one adverse party, and the adverse parties are represented by different attorneys, one copy of each pleading shall on request be furnished to each attorney representing the adverse parties, but a firm or attorneys associated in the case shall count as one.

Not more than four copies of any pleading shall be required to be furnished to adverse parties and they shall be delivered to the first four applicants entitled thereto. After a copy of a pleading is furnished to an attorney or deposited with the clerk for him, he cannot require another copy of the same pleading to be furnished him.

(14) **Failure to Furnish Copy.** If any party fails to furnish the adverse party with a copy of any pleading in accordance with this provision, he may be required to do so by order of the court on motion made and given, and if he fails to comply with any such order within five days after its date, he may be punished as for contempt of court, and a certified copy may be ordered to be furnished by the clerk and the costs thereof charged to the party who failed to comply with the order to furnish the same.

(15) **Setting Cases for Trial.** On the first Monday in each term, and at such other times as the judge may designate, the judge of each court shall set for trial all contested cases which are requested to be set, and by agreement of the parties, or on motion of either party, or on the court's own motion with notice to the parties, the court may set any case for trial at any time so as to allow parties reasonable time for preparation. Non-contested cases may be tried or disposed of at any time whether set or not, and may be set at any time for any other time.

(16) **Postponement or Continuance.** Cases may be postponed or continued by agreement with the approval of the court, or upon the court's own motion or for cause. When a case is called for trial and only one party is ready, the court may for good cause either continue the case for the term or postpone and reset it for a later day in the same or succeeding term.

(17) **Cases May be Reset.** A case that is set and reached for trial may be postponed for a later day in the term or continued and reset for a day certain in the succeeding term on the same grounds as an application for continuance would be granted in other district courts. After any case has been set and reached in its due order and called

for trial two or more times and not tried, the court may dismiss the same unless the parties agree to a postponement or continuance but the court shall respect written agreements of counsel for postponement and continuance if filed in the case when or before it is called for trial unless to do so would unreasonably delay or interfere with other business of the court.

(18) Pleas of Privilege. Every plea of privilege shall be filed at or before the time the defendant is required to answer. In all other respects pleas of privilege shall be governed, heard and determined as now provided by Articles 2007 and 2008 of the Revised Civil Statutes.

(19) Motion for New Trial. All motions for new trial shall be filed within two days after the rendition of judgment, but such motion may be amended at any time before the same is acted upon by the court. All motions or amended motions for new trial shall be determined by the court within thirty days after judgment is rendered, and unless acted upon within such time, the same shall be in law considered as overruled, and this provision shall be mandatory. In all appeals where no order overruling motion for new trial is shown, it shall be conclusively presumed that such order was overruled on the thirtieth day after the expiration of the time for filing original motion for new trial. A motion for a new trial filed during one term of court may be heard at the next term, and in the event a case or other matter is on trial or in process of hearing when the term of the court expires, such trial or hearing shall proceed at the next term. No motion for new trial or other motion or plea shall be considered, waived, or overruled because not acted upon in the term of court at which it was filed but may be acted upon at a succeeding term within the time herein specified.

(20) Judgments. Judgments of such district courts shall become final after the expiration of twenty days after the date of judgment or after a motion for new trial is overruled as if the term of court had expired, and after the expiration of twenty days from the date the judgment is rendered or a motion for

new trial is overruled, the judgment cannot be set aside except by bill of review for sufficient cause filed within the time now fixed by law.

(21) The rules of practice and procedure governing and controlling appeals and writs of error and the preparation and filing of appeal bonds, writ of error bonds, bills of exception, statement of facts and transcripts shall be the same as now apply, govern and control in district courts having terms of eight weeks or more.

Sec. 4. No jury trial shall be had as a matter of right in a civil case unless the plaintiff in his original petition makes demand for jury, and at the time of filing such petition, deposits with the clerk to the use of the county, the sum of five (\$5.00) dollars; or unless the defendant at the time he files or should file his answer, makes demand upon the clerk for a jury and deposits such jury fee, provided, however, that the payment of a jury fee shall not be required where statutory showing of inability to pay is made.

Sec. 5. In default of answer and demand for jury, or if the answer filed shows no defense to plaintiff's cause of action, if the cause of action is liquidated and proven by instrument of writing, the court may proceed to final judgment, but in the event the defendant has filed an answer showing a defense to plaintiff's cause of action and has demanded and paid for a jury, he shall be entitled to a jury trial. If the cause of action is unliquidated, or be not proved by instrument in writing, the court shall hear evidence as to damages and shall render judgment therefor unless the defendant shall have demanded and be entitled to a jury trial, in which case a judgment by default shall be noted, a writ of inquiry awarded, and the cause tried to a jury.

Sec. 6. The judges of all such district courts shall cause juries to be drawn as now provided by law for as many weeks of the succeeding term of court as he may deem advisable and necessary. The lists of names drawn shall be duly certified and sealed in separate envelopes and endorsed: "List No. \_\_\_\_\_ of petit jurors for the term of the District Court of \_\_\_\_\_ County," (filing

in the blanks). The commissioners shall write their names across the seals of the envelopes and deliver them to the judge, who shall deliver them to the clerk or one of his deputies in open court. The judge of such court shall from time to time as the need for juries becomes evident, issue and order to be spread upon the minutes of the court directing the clerk to deliver the jury lists to the sheriff and directing the sheriff to summon such jury, or juries, for duty at any stated time within the term for which the jury lists were drawn. For the first jury week, List No. 1 shall be used, and such lists shall be exhausted in their numerical order.

Sec. 7. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Sec. 8. The fact that short terms of district courts have hindered and delayed the administration of justice in Texas, and the further fact that there is an urgent need to keep district courts of the several counties open at all times creates an imperative public necessity that the constitutional rule which requires bills to be read on three several days be suspended, and it is hereby suspended, and this Act shall take effect and be in force and effect from and after its passage, and it is so enacted.

SMALL.

Read and adopted.

The bill was passed to engrossment.

On motion of Senator Small the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 130 was put on its third reading and final passage by the following vote:

Yeas—29.

Blackert.	Neal.
Collie.	Oneal.
DeBerry.	Pace.
Duggan.	Parr.
Fellbaum.	Patton.
Greer.	Poage.
Holbrook.	Purl.
Hopkins.	Rawlings.
Hornsby.	Redditt.
Martin.	Regan.
Moore.	Russek.
Murphy.	Sanderford.

Small.  
Stone.  
Woodruff.

Woodul.  
Woodward.

Absent—Excused.

Beck. Cousins.

Read third time and finally passed by the following vote:

Yeas—29.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

Absent—Excused.

Beck. Cousins.

#### Senate Bill No. 504.

The Chair laid before the Senate on its second reading, by unanimous consent, the following bill:

By Senator Hornsby:

S. B. No. 504, A bill to be entitled "An Act to prevent fraud and deception in the sale, and offering for sale, of rebuilt electric storage batteries; and prescribing penalties for the violation thereof."

The bill was read second time and passed to engrossment.

On motion of Senator Hornsby, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 504 was put on its third reading and final passage by the following vote:

Yeas—29.

Blackert.	Moore.
Collie.	Murphy.
DeBerry.	Neal.
Duggan.	Oneal.
Fellbaum.	Pace.
Greer.	Parr.
Holbrook.	Patton.
Hopkins.	Poage.
Hornsby.	Purl.
Martin.	Rawlings.

Redditt. Stone.  
Regan. Woodruff.  
Russek. Woodul.  
Sanderford. Woodward.  
Small.

Absent—Excused.

Beck. Cousins.

Read third time and finally passed  
by the following vote:

Yeas—29.

Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Pace.	

Absent—Excused.

Beck. Cousins.

#### Motion to Re-commit.

Senator Redditt moved to re-commit H. B. No. 484 to the Committee on Public Lands and Land Office. The motion prevailed.

#### Senate Bill No. 400.

The Chair laid before the Senate on its second reading, by unanimous consent, the following bill:

By Senator Purl:

S. B. No. 400, A bill to be entitled "An Act empowering the Supreme Court to make and establish Rules of Procedure for the government of said Court and for the other courts of this State to expedite and dispatch the business therein; repealing all laws and parts of laws in conflict with this Act, and declaring an emergency."

Read second time.

On motion of Senator Purl, the bill was laid on the table subject to call.

#### S. C. R. No. 50.

Senator Collie received unanimous consent to take up:

S. C. R. No. 50, Granting Alfred Brown permission to sue the State. The committee report recommending that the bill be not printed was adopted by unanimous consent.

Read and adopted.

#### Senate Simple Resolution No. 117.

Senator Woodruff called up from the table:

S. S. R. No. 117, Relative to sending representatives to Washington in connection with proposed Federal control of the oil industry.

The resolution was lost by the following vote:

Yeas—9.

Greer.	Patton.
Holbrook.	Regan.
Hopkins.	Woodruff.
Moore.	Woodward.
Neal.	

Nays—15.

Blackert.	Poage.
Collie.	Purl.
DeBerry.	Rawlings.
Fellbaum.	Russek.
Hornsby.	Small.
Murphy.	Stone.
Oneal.	Woodul.
Parr.	

Absent.

Duggan.	Redditt.
Martin.	

Absent—Excused.

Beck. Cousins.

(Pair Recorded.)

Senator Pace (present) who would vote yea, with Senator Sanderford (absent) who would vote nay.

#### Recess.

On motion of Senator Russek, the Senate, at 5:44 o'clock p. m., recessed until 10 o'clock tomorrow morning.

#### APPENDIX.

##### Committee on Enrolled Bills.

Committee Room,  
Austin, Texas, May 19, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 148

carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, May 19, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 242 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, May 20, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. J. R. No. 2 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, May 20, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 72 carefully examined and compared, and find same correctly enrolled.

GREER, Chairman.

#### Committee on Engrossed Bills.

Committee Room,

Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 71 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

Committee Room,

Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 73 carefully examined and compared, and find same correctly engrossed.

REGAN, Chairman.

#### Committee Reports.

Committee Room,

Austin, Texas, May, 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 821, Making an emergency appropriation of eight hundred (\$800.00) dollars to pay the mileage

and per diem of the members of the State Board of Health during the remainder of the fiscal year ending August 31, 1933.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

HOLBROOK, Chairman.

Committee Room,

Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 876, Appropriating one thousand, one hundred twenty-seven dollars and ten cents (\$1,127.10) to pay the balance of costs due by the State of Texas in the case of the State of New Mexico versus the State of Texas, Number 2, original, October term, 1930, Supreme Court of the United States.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

HOLBROOK, Chairman.

Committee Room,

Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 771, Providing for the creation of the Texas Canyon State Park.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

HOLBROOK, Chairman.

Committee Room,

Austin, Texas, May 22, 1933.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 393, A bill to be entitled "An Act making an appropriation of one thousand dollars (\$1,000.00) for the relief of the Silas Common School District No. 17 in Shelby County, Texas."

Have had the same under consideration, and I am instructed to report it back to the Senate with the

recommendation that it do pass, and be not printed.

HOLBROOK, Chairman.

Committee Room,  
Austin, Texas, May 21, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

S. B. No. 566, A bill to be entitled "An Act to amend Sections 1, 2 and 6, Chapter 148 of the General Laws passed by the Forty-second Legislature at its Regular Session in 1931, relating to the authority of counties and incorporated cities and the Texas State Parks Board, separately, or in cooperation with each other, to acquire by gift or purchase land for public parks; providing that lands to be acquired by any such city to be used for public parks and play grounds, may be situated within or without its corporate limits, in the discretion of the governing body thereof, but within the county in which such city is situated; authorizing the issuance of bonds by any such city for park purposes; adding to said Chapter 148 a new section to be called Section 2-a, legalizing, approving and validating bonds voted by any city or town for the purpose of purchasing and improving lands for a public park in and for said city or town, and the levy of the tax in payment of such bonds under authority of Chapter 148 of the General Laws passed at the Regular Session of the Forty-second Legislature; and which bonds have been approved by the Attorney General and registered by the Comptroller; authorizing the governing body of any such city or town to adopt all orders, resolutions and ordinances and to do all other and further acts necessary in the issuance or sale of such bonds; authorizing such governing body to levy a direct general ad valorem tax on all taxable property in said city or town for the purpose of paying the interest on and principal of such bonds; prescribing the maximum tax that may be levied in payment of bonds issued by cities and towns for park purposes; providing that nothing herein shall be construed as a repeal of any special charter, but that the provisions hereof shall be cumulative of any such special charter; repealing all

provisions of the general statutes in conflict herewith, and particularly repealing H. B. No. 104, passed at the present session of this Legislature, and which was approved and effective on April 17, 1933; declaring the legislative intent in respect of the enactment of said Chapter 148 of the General Laws of the Forty-second Legislature, Regular Session; enacting provisions incident and necessary to the subject and purpose of this Act, and declaring an emergency."

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and be not printed.

COLLIE, Chairman.

Committee Room,  
Austin, Texas, May 22, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

H. B. No. 361, A bill to be entitled "An Act to amend Section 13, of Chapter 280, of the General Laws of the Forty-first Legislature of Texas, Regular Session, relating to water control and improvement districts, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

REGAN, Vice-Chairman.

Committee Room,  
Austin, Texas, May 22, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 928, A bill to be entitled "An Act to make provision for: 1— (Section 1). To anticipate the submission and adoption of the proposed constitutional amendment to provide for the adoption of a home rule charter by any county in Texas, upon a vote of the qualified resident electors of any county, all as proposed in the pending Senate Joint Resolution No. 3. Reference to said proposed amendment to the Constitution in the exact form for submission to the electors of the State, here is made, to the same effect as though it were embodied herein. Further providing

(Section 21 hereof) that no county charter provision impairing the operation of the General Laws of the State relating to the judicial, tax, fiscal, educational, police, highway, and health systems of the State, or any department of the State's superior government may have effect as against the State. 2—(Section 2). Making provision for calling conventions in each voting precinct in a county, for the selection of resident delegates to a county convention to be held for the selection of a charter drafting commission, to be composed of persons considered capable of drafting or to give aid in drafting a charter deemed to conform to the will and needs of the qualified resident electors of the county, and to be subject to adoption or rejection by vote of the people of the county, under the express conditions of the proposed amendment and the procedural safeguards of this Act. 3—(Section 3). Fixing the qualifications, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

WOODWARD, Chairman.

Committee Room,  
Austin, Texas, May 22, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 672, A bill to be entitled "An Act amending Chapter 17, House Bill 122, of the Acts of the First Called Session of the Fortieth Legislature, by changing and redefining the term 'loan broker,' and by re-enacting the remaining portion of the said Act, except the changing of the words 'household and kitchen furniture' to 'personal property,' and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

WOODWARD, Chairman.

Committee Room,  
Austin, Texas, May 22, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on

Game and Fish, to whom was referred

S. B. No. 563, A bill to be entitled "An Act prohibiting the use of any steel trap or setting of such trap in Bell County, except within two hundred yards of a residence; providing a penalty, repealing conflicting laws and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

REDDITT, Chairman.

Committee Room,  
Austin, Texas, May 22, 1933.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Towns and City Corporations, to whom was referred

H. B. No. 923, A bill to be entitled "An Act to empower certain cities in this State therein defined to build, construct, own, maintain and operate a bridge or bridges over and across any stream, inlet or arm of the Gulf of Mexico or entrance channel to a port in said city and to enact all necessary and reasonable ordinances, providing rules and regulations for the operation of same and providing that no such bridge constructed, maintained and operated over any entrance channel to any port operated by any navigation district without a permit from the navigation and canal commissioners of said district upon condition fixed by said permit and providing that said navigation and canal commissioners shall have the power to prescribe a reasonable rules and regulations for the operation of said bridge and direct control over the mechanical facilities of said bridge for the clearance of the channel for ingress and egress of vessels to said port, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass as amended, and be printed in the Journal.

COLLIE, Chairman.

Amend H. B. No. 923 by striking out all after the enacting clause, and insert in lieu thereof the following:  
Section 1. Any city in this State,

whether organized and operating under general law or under special charter granted by the Legislature of the State of Texas or under charter adopted or amended under Section 5 of Article 11 of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the general laws of the State of Texas and having a deep water port located within the limits of said city, may within such city purchase, construct, own, maintain and operate a bridge or bridges over or across any stream, inlet or arm of the Gulf of Mexico or entrance canal to said port connecting up any of the public streets, highways or other thoroughfare of said city and improve, enlarge or repair the same. Any such city may purchase, construct, own, maintain, operate or lease any wharf, pier, pavilion, and/or boathouse and may acquire, reclaim, reconstruct, or fill in any submerged lands along its waterfront, may build and construct sea walls, breakwaters or other shore protection to protect its waterfront of said city, may provide for and construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, or other like improvements in connection with such reconstructed or reclaimed properties and may operate, repair and otherwise maintain the same. And any such city reconstructing or reclaiming any such property may rent, lease or sell the same, or grant franchises for the use of any such reconstructed or reclaimed property and apply the income therefrom in accord with this Act, and may dredge out, construct, reconstruct, maintain and operate any channel in connection with any such deep water port in aid of navigation within said city and subject to the provisions of this Act.

Sec. 2. Any such city may enact all necessary, appropriate and reasonable ordinances providing rules and regulations for the operation of any such bridge or bridges and concerning the manner in which traffic shall move over and across any such bridge or bridges not inconsistent with the general laws of the State.

Sec. 3. This Act shall be construed as cumulative authority for the purposes named herein, and as to the manner and form of issuance

of any revenue bonds for any such purpose or purposes, and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this Act to create an additional and alternate method for the purposes named herein.

Sec. 4. Whenever the governing body of such city shall determine to acquire, construct, improve, enlarge, extend or repair any such bridge or bridges, and/or reclaim or reconstruct, improve, repair, or extend any such sea walls, breakwaters, shore protection or water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, wharfs, piers, pavilions, or other like improvements in any such reconstructed or reclaimed area or territory, it shall first cause an estimate to be made of the cost thereof, and thereafter it shall then cause a notice to be published in such city in a newspaper of general circulation once each week for four consecutive weeks stating in said notice the following:

- (1) The contemplated improvements.
- (2) The estimated cost thereof.
- (3) The use or disposition of the reclaimed lands, if any.
- (4) The amount and location of lands to be reclaimed, if any.
- (5) The time when the ordinance authorizing said improvements and the issuance of the bonds shall be passed or acted upon (which shall be not less than twenty days after the last publication of said notice); and
- (6) Reference shall be made to the right of referendum, as provided for in the next succeeding paragraph.

If by the time set for action upon said ordinance, which shall be not less than twenty days after the last publication of the notice provided for herein, as many as one hundred (100) of the qualified voters of such city whose names appear on the last approved tax rolls as property taxpayers, petition the city council or governing body of such city in writing to submit to a referendum vote the question as to the making of such improvements and the issuance of such bonds for such purposes, then such city, city council or governing body shall not be authorized to make said improvements or issue said bonds unless the proposition making such improvements and issu-



ing such bonds for such purpose is sustained by a majority of the votes cast at such election for such purpose. The law in reference to elections for the issuance of city bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925, shall govern in so far as consistent with the provisions of this Act. If such petition is not so filed with the city secretary, or clerk, then the city council or governing body may proceed with the improvements and may issue said bonds, but in the absence of such petition, the city council or governing body may at its discretion submit such question to a vote of the people.

Sec. 5. For the purpose of acquiring, constructing, improving, enlarging, extending or repairing any such bridge or bridges, and/or for the purpose of acquiring, constructing, reclaiming, reconstructing, repairing or improving any such sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements in such reconstructed or reclaimed area or territory, any one or all, any such city may borrow money and issue its negotiable bonds, provided that no such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, the maximum rate of interest, time and place of payment and other details in connection with the issuance of such bonds. Such bonds shall bear interest at the rate of not more than six per centum (6%) per annum payable semi-annually or otherwise, and shall be payable at such times, not exceeding forty-five (45) years from their date, and at such place or places as shall be prescribed in the ordinance providing for their issuance. The bonds and coupons shall be executed in such manner and shall be substantially in the form provided in the authorizing ordinance. Such bonds shall be sold in such manner and upon such terms as the governing body shall deem for the best interest of the city. In no event shall any of the bonds be sold on a basis to yield more than six per centum (6%) per annum from the date of sale to the date of average maturity of the bonds sold, provided, however,

that in any contract for the purchase or construction of any such project or projects as hereinbefore described, or for the improvement, enlargement, extension, reclamation, reconstruction or repair of the same, provision may be made that payment therefor may be made in such bonds. Such bonds and their coupons may be made payable in lawful money of the United States of America, or in gold coin of or equal to the standard of weight and fineness existing on the date thereof. Such bonds shall mature annually and the first installment thereof shall be made payable not less than two (2) years nor more than five (5) years from the date of such bonds. No such installment shall be more than two and one-half times as great in amount as the smallest prior installment of the same issue. If all of the bonds of an issue are not issued at the same time, the bonds at any one time outstanding shall mature as aforesaid. The principal of and interest upon such bonds shall be payable solely from the income and revenues derived from the operation of the bridge or bridges, sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements including rentals or other charges received from any reclaimed or reconstructed area or territory for the acquisition, construction, improvement, reconstruction, reclamation, enlargement, extension or repair of which the same are issued; provided, however, that where any such city acquires or constructs a bridge or bridges under authority of this Act, and in connection therewith acquires or constructs any sea wall, breakwaters or other shore protection and reclaims or reconstructs any submerged area or territory and constructs therein or thereon any water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets or other like improvements, any such city may, as additional security for the payment of any bonds issued for the acquisition or construction of any such bridge or bridges, pledge any income or revenues derived from any such projects, and additionally secure the payment of any such bonds with a mortgage on any such project or projects or reclaimed area as hereinafter provided. No bond or coupon issued pursuant to this Act

shall constitute an indebtedness of such city within the meaning of any State constitutional or statutory limitation. No such obligation shall ever be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. It shall be plainly stated on the face of each such bond and coupon that the same have been issued under the provisions of this Act and that it does not constitute an indebtedness of such city within any State constitutional or statutory limitation, and that the holder of such bond shall never have the right to demand payment of such obligation out of any funds raised or to be raised by taxation.

Sec. 6. As security for the payment of the principal of and interest on such bonds, such city may mortgage and encumber any part, parts or all of the properties and facilities for the acquisition, construction, reconstruction, reclamation, repair or improvement of the same such bonds were issued, and may provide in such mortgage or encumbrance for a grant to the purchaser under sale or foreclosure thereunder of a franchise to operate the properties and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force. The ordinance authorizing the issuance of such bonds shall contain a substantial description of the franchise which is to appear in the mortgage.

Sec. 7. The mortgage or encumbrance shall provide for a trustee to enforce foreclosure and the city shall have the option at any five (5) year period within said twenty (20) years after purchase of properties designated in the franchise, to repurchase said properties under reasonable terms and reasonable prices, to be set forth in said mortgage or encumbrance, but this limitation shall not extend to any reclaimed area acquired by individual purchasers.

Sec. 8. The management and control of any such properties and/or facilities so encumbered, during the time they are so mortgaged and encumbered, shall be in the hands of the governing body of the city, except as otherwise provided in Section 29 of this Act. The provisions of this Section and Section 29 hereof

shall not apply when there has been a sale on foreclosure under the mortgage in this Act provided for.

Sec. 9. The bonds issued under the provisions of this Act are legal investments for executors, administrators, trustees and other fiduciaries and for savings banks and insurance companies organized under the laws of this State.

Sec. 10. Bonds and interest coupons issued hereunder are hereby exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas, and it shall be plainly stated on the face of each bond as follows: "The principal of and interest on this bond are exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas."

Sec. 11. Bonds issued under the provisions of this Act shall have all of the qualities of negotiable instruments under the law merchant and the negotiable instruments law.

Sec. 12. The governing body of any such city issuing any such bonds shall, where practicable, require that the proceeds of the sale of bonds issued under the provisions of this Act be deposited in a special account or accounts in a bank or banks which are members of the Federal Reserve System, and shall require, in so far as practicable, that each such deposit be secured by direct obligations of the United States Government having an aggregate market value at least equal to the sum at the time on deposit, or, in any event, the proceeds shall be deposited in some bank or other depository, either within or without the State, which will secure such deposit satisfactorily to said governing body.

Sec. 13. All moneys received from any such bonds shall be used solely for the acquisition, construction, improvement, reclamation, reconstruction, enlargement, extension or repair of the project or projects for which issued including not more than five (5%) per centum for engineering, legal and other expenses and discounts incident thereto; provided, however, that such moneys may be used also to advance the payment of interest on such bonds during the first three (3) years follow-

ing the date of such bonds to not more than the contract rate of interest. Provided, that any unexpended balance of the proceeds of the sale of any such bonds remaining after the completion of the project for which issued shall be put immediately into the bond and interest redemption fund for such bonds, and the same shall be used only for the payment of the principal of the bonds, or, in the alternative, to acquire outstanding bonds of the general issue from which the proceeds were derived, by purchase of such bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof. Any bonds so acquired by purchase shall be cancelled and shall not be reissued.

Sec. 14. In case any of the officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

Sec. 15. The reasonable cost and value of any service rendered to any such city by any such project or projects shall be charged against the city and shall be paid for monthly or otherwise, as the service accrues, from the current funds, or from the proceeds of taxes which such city, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for the purpose, and such funds, when so paid, shall be accounted for in the same manner as other revenues of such project or projects.

Sec. 16. Any city acquiring, constructing, reconstructing, reclaiming, improving, enlarging or repairing any project or projects as aforesaid pursuant to the provisions of this Act, may, at the time of the authorization of such bonds for any such purpose or purposes, provide in the authorizing ordinance for additional bonds for extensions and permanent improvements, which additional bonds may be issued and be negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

Sec. 17. Where a city has out-

standing any bonds issued under the provisions of this Act, it may thereafter issue and negotiate new bonds on such terms as the governing body of such city shall deem advisable for the purpose of providing for the payment of any such outstanding bonds. Such new bonds shall be designated "refunding bonds," and shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded.

Sec. 18. Rates or other charges for services and facilities afforded by the project and for sales of reclaimed area shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the project or projects necessary to preserve the same in good repair and working order, to build up a reserve for depreciation of the project or projects, and to build up a reserve for improvements, betterments and extensions thereto other than those necessary to maintain the same in good repair and working order, as herein provided. Such rates and/or charges shall be fixed and revised from time to time so as to produce these amounts, and the governing body shall covenant and agree in the ordinance authorizing the issuance of such bonds, and on the face of each bond at all times to maintain such rates and/or charges for services furnished by such project or projects as shall be sufficient to provide for the foregoing.

Sec. 19. The reasonable cost of administration and operation and the reasonable expense of maintaining such project or projects in good repair and working order shall be a first lien and charge against the income and revenues derived from the operation of such project or projects, superior to the lien of the mortgage or encumbrance on such project or projects.

Sec. 20. Out of the gross income and revenues of such project or projects there should be first set aside into an account to be known as the "Operation and Maintenance Ac-

count" monthly or oftener if necessary, sums sufficient to meet the cost and expenses set forth in Section 18 hereof. After provision for the "Operation and Maintenance Account" the ordinance authorizing the issuance of such bonds shall make provision for a "bond and interest redemption fund" into which there shall be set aside monthly or oftener if necessary such portion of the gross income and revenues of such project or projects as shall be sufficient to pay when due the principal of and interest upon the bonds provided, however, that in the segregation and separation of such gross income and revenues the governing body of the city may prescribe a reasonable excess amount to be placed in said bond and interest redemption fund from time to time during the earlier years of maturities of such bonds so as thereby to produce and provide a reserve fund for contingencies to meet any possible deficiencies therein in maturities of the future years.

Sec. 21. The ordinance authorizing the issuance of such bonds shall definitely determine whether such project or projects shall be operated upon a calendar, operating or fiscal year basis and the dates of the beginning and ending of same.

Sec. 22. The governing body of such city may make adequate and suitable provision for the disposition of any surplus accumulations in the operation and maintenance account, or depreciation account, causing same to be transferred to the bond and interest redemption fund, invested, or otherwise disposed of.

Sec. 23. The governing body of the city authorizing the bonds under the provisions of this Act may make provision for any such bonds to be called for payment on any interest payment date before maturity provided that the city shall have on hand in its bond and interest redemption fund sufficient moneys not otherwise appropriated or pledged, in excess of the interest and principal requirements within the next two succeeding calendar, operating or fiscal years.

Sec. 24. Nothing in this Act shall be construed to prohibit the city, county or the State from appropriating and using any part of its available income and revenues derived

from any source, other than in case of the city, from the operation of such project or projects, in paying any immediate expenses of operation or maintenance of any such project or projects or otherwise aiding in financing any part of the construction of said bridge or bridges, or reclaiming any submerged area or territory herein described.

Sec. 25. Rates of the city charged for services and/or facilities furnished by any such project or projects shall not be subject to supervision or regulation by any State bureau, board, commission or other like agency or instrumentality thereof; provided however, that the functions, powers and duties of the State Board of Health shall remain unaffected by this Act.

Sec. 26. Any city issuing bonds under the provisions of this Act shall install and maintain proper books of record and account (separate entirely from other records and account of such city) in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and affairs of the project or projects and the same shall be open for examination and inspection by any taxpayer, user of the services furnished by the project or projects, or any holder of the bonds issued under the provisions of this Act, or any one acting for or on behalf of such taxpayer, user of the services of the project or projects, or bondholder.

Sec. 27. Nothing in this Act shall be construed as authorizing any city to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of income and revenues as aforesaid only where consistent with outstanding obligations of such city.

Sec. 28. Any such city mentioned in Section 1 of this Act, in addition to the powers conferred under this Act, is hereby granted and shall hereafter have the power to borrow money from the Federal Government or any of its agencies created for the purpose of making such loan, for the purpose of constructing and maintaining said bridge and the other improvements herein provided

for and to mortgage and encumber said properties and facilities and the net revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired to secure the payment of the funds necessary to said construction and improvement and as additional security therefor by the terms of such encumbrance may pledge and encumber the net income and revenues from the operation of all of said properties and facilities and may provide in such encumbrance for a grant to the purchaser under a sale or foreclosure thereunder of a franchise to operate the property and facilities so encumbered for a term of not over twenty years after such purchase, subject to all laws regulating same then in force.

Sec. 29. Anything in this Act to the contrary notwithstanding, no such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a permit from the navigation and canal commissioners of such district and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the navigation and canal commissioners of the navigation district governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated under the direct control and direction of said navigation and canal commissioners; provided, that said commissioners may appropriate and use any available revenues of said district in defraying part of the cost of operation and maintenance of any bridge or bridges constructed hereunder. No city shall have the power to con-

struct, maintain or operate any such bridge over any such entrance channel to any such deep water port except in conformity with this Section.

Sec. 30. Any county in which any such city is situated is hereby authorized to appropriate to any such city for use in constructing any such bridge or bridges, or reclaiming or reconstructing any such submerged area or territory, or constructing sea wall or breakwater protection for its water front, any available revenues of such county, and any such county is authorized to appropriate and apply any part of its available income and revenues to the operation and maintenance of any such project or projects.

Sec. 31. The State Highway Department of the State of Texas, with the approval of the Governor may appropriate and apply any available revenues of such department to aid in the construction, operation and maintenance of any bridge or bridges acquired or constructed under the provisions of this Act, together with any approaches thereto, or the acquisition of any properties in connection with or in furtherance thereof.

Sec. 32. The invalidity of any section, sentence, clause, paragraph or portion of this Act shall not affect the validity of the remainder of this Act.

Sec. 33. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Sec. 34. The fact that but a limited time remains permitting cities to secure relief during this period of depression from the Federal Government in order to aid said cities and the unemployed, creates an emergency and an imperative necessity that the constitutional rule requiring all bills to be read on three several days in each house be and the same is hereby suspended, that this Act take effect and be in force from and after its passage and it is so enacted.

Amend H. B. No. 923, by striking out all above the enacting clause and insert in lieu thereof the following:

#### A BILL

#### To Be Entitled

An Act to empower certain cities in this State therein defined to build, construct, own, maintain and operate a bridge or bridges over and across any stream, inlet or arm of

the Gulf of Mexico or entrance channel to a port in said city and to enact all necessary and reasonable ordinances, providing rules and regulations for the operation of same and providing that no such bridge constructed, maintained and operated over any entrance channel to any port operated by any navigation district without a permit from the navigation and canal commissioners of said district upon conditions fixed by said permit and providing that said navigation and canal commissioners shall have the power to prescribe reasonable rules and regulations for the operation of said bridge and direct control over the mechanical facilities of said bridge for the clearance of the channel for ingress and egress of vessels to said port, and further granting to said city the power to fill in and reclaim any of its submerged lands along its water front and to build and construct sea walls, breakwaters or shore protection to the same and to construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, wharfs, piers, pavilions and boat-houses, and other like improvements thereon and to rent, lease, sell or grant franchises for the use of the same and to dredge out construct and maintain any extension of any channel in connection with such deep water port within said city and granting said city the power for all of said purposes to borrow money from the Federal Government or any of its agencies created for the purpose of making such loan, or otherwise obtain such funds and to incur said properties and facilities and the net revenues and income of same to secure payment of said funds and to make sale of all or parts of the reclaimed area; to pledge and incur said net income and revenues and to provide for foreclosure and for a franchise to the purchaser under foreclosure and to issue evidences of indebtedness secured thereby, prescribing the limitation upon said evidences of indebtedness and incumbrances and providing that same shall be solely a charge upon the property incumbered and the net revenues and income thereof shall not be a debt of said city under the Constitution and providing that the

holder of said indebtedness shall not have the right to demand the payment of said obligation out of any funds raised by taxation, prescribing the provisions of said incumbrances and evidences of indebtedness while so incumbered and after default; and providing that the governing body of such city must give notice by publication of its intention to make said improvements and issue said bonds, prescribing the contents of said notice and providing for a referendum vote of the majority of the taxpaying voters of said city upon petition, and authorizing said governing body of said city in their discretion to submit said proposition to a vote in the absence of such petition; enabling State Highway Commission to provide part or all of the cost, providing a saving clause, repealing all laws and parts of laws in conflict herewith, and declaring an emergency.

By Pope.

H. B. No. 923.

#### A BILL

#### To Be Entitled

An Act to empower certain cities in this State, herein defined, to build, construct, own, maintain and operate a bridge or bridges over and across any stream, inlet or arm of the Gulf of Mexico or entrance channel to a port in said city and to enact all necessary and reasonable ordinances; providing rules and regulations for the operation of same and providing that no such bridge constructed, maintained and operated over any entrance channel to any port operated by any navigation district without a permit from the Navigation and Canal Commissioners of said district upon conditions fixed by said permit, and providing that said Navigation and Canal Commissioners shall have the power to prescribe reasonable rules and regulations for the operation of said bridge and direct control over the mechanical facilities of said bridge for the clearance of the channel for ingress and egress of vessels to said port, and further granting to said city in connection with the construction of such bridge the power to fill in and reclaim any of its submerged

lands along its water front and to build and construct sea walls, breakwaters or shore protection to the same, and to construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements thereon and to rent, lease, sell or grant franchises for the use of same and to dredge out, construct and maintain any extension of any channel in connection with such deep water port within said city, and granting said city the power for all of said purposes to borrow money from the Federal Government or any of its agencies created for the purposes of making such loan, or otherwise obtain such funds and to incumber said properties and facilities and the net revenues and income of same to secure payment of said funds and to make sale of all or parts of the reclaimed area; to pledge and incumber said net income and revenues and to provide for foreclosure and for a franchise to the purchaser under foreclosure, and to issue evidences of indebtedness secured thereby, prescribing the limitation upon said evidences of indebtedness and incumbrances, and providing that same shall be solely a charge upon the property incumbered and the net revenues and income thereof shall not be a debt of said city under the constitution, and providing that the holder of said indebtedness shall not have the right to demand the payment of said obligation out of any funds raised by taxation; prescribing the provisions of said incumbrances and evidences of indebtedness while so incumbered and after default; limiting the provisions of this Act to loans secured from the Reconstruction Finance Corporation or other like agency of the Federal Government, and providing that Chapter 163, Acts of the Forty-second Legislature applicable to a city acting under the provisions of this Act; enabling State Highway Commission to provide part or all of the cost; providing a saving clause; repealing all laws and parts of laws in

conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Any city in this State, whether organized and operating under general law or under special charter granted by the Legislature of the State of Texas or under charter adopted or amended under Section 5, of Article 11, of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the General Laws of the State of Texas and having a deep water port located within the limits of said city, may within such city purchase, construct, own, maintain and operate a bridge or bridges over or across any stream, inlet or arm of the Gulf of Mexico or entrance canal to said port connecting up any of the public streets, highways or other thoroughfares of said city and improve, enlarge or repair the same. Any such city, in connection with the acquisition, construction, ownership, maintenance and operation of such bridge or bridges, or otherwise, may acquire, reclaim, reconstruct, or fill in any submerged lands along its water front, may build and construct sea walls, breakwaters or other shore protection to protect its water front of said city, may provide for and construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets or other like improvements in connection with such reconstruction or reclaimed properties and may operate, repair and otherwise maintain the same. And any such city reconstructing or reclaiming any such property may rent, lease or sell the same, or grant franchises for the use of any such reconstructed or reclaimed property and apply the income therefrom in accord with this Act, and may dredge out, construct, reconstruct, maintain and operate any channel in connection with any such deep water port in aid of navigation within said city and subject to the provisions of this Act.

Sec. 2. Any such city may enact all necessary, appropriate and reasonable ordinances providing rules and regulations for the operation of any

such bridge or bridges and concerning the manner in which traffic shall move over and across any such bridge or bridges not inconsistent with the General Laws of the State. Provided such city shall never have the right or authority to charge any tolls, fees, rentals or other charges for the use of such bridges or the right to pass over same.

Sec. 3. This Act shall be construed as cumulative authority for the purposes named herein, and as to the manner and form of issuance of any revenue bonds for any such purpose or purposes, and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this Act to create an additional and alternate method for the purposes named herein.

Sec. 4. Whenever the governing body of any such city shall determine to acquire, construct, improve, enlarge, extend or repair any such bridge or bridges, and/or reclaim or reconstruct, improve, repair or extend any such sea walls, breakwaters, shore protection or water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, or other like improvements in any such reconstructed or reclaimed area or territory, it shall first cause an estimate to be made of the cost thereof, and the fact that such estimate has been made and the amount thereof shall appear in the ordinance authorizing and providing for the issuance of the bonds.

Sec. 5. For the purpose of acquiring, constructing, improving, enlarging, extending or repairing any such bridge or bridges, and/or for the purpose of acquiring, constructing, reclaiming, reconstructing, repairing or improving any such sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements in such reconstructed or reclaimed area or territory, any one or all, any such city may borrow money and issue its negotiable bonds, provided that no such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, the maximum

rate of interest, time and place of payment and other details in connection with the issuance of such bonds. Such bonds shall bear interest at the rate of not more than six per centum (6%) per annum payable semi-annually or otherwise, and shall be payable at such times, not exceeding forty-five (45) years from their date, and at such place or places as shall be prescribed in the ordinance providing for their issuance. The bonds and coupons shall be executed in such manner and shall be substantially in the form provided in the authorizing ordinance. Such bonds shall be sold in such manner and upon such terms as the governing body shall deem for the best interest of the city. In no event shall any of the bonds be sold on a basis to yield more than six per centum (6%) per annum from the date of sale to the date of average maturity of the bonds sold, provided, however, that in any contract for the purchase or construction of any such project or projects as hereinbefore described, or for the improvement, enlargement, extension, reclamation, reconstruction or repair of the same, provision may be made that payment therefor may be made in such bonds. Such bonds and their coupons may be made payable in lawful money of the United States of America, or in gold coin of or equal to the standard of weight and fineness existing on the date thereof. Such bonds shall mature annually and the first installment thereof shall be made payable not less than two (2) years nor more than five (5) years from the date of such bonds. No such installment shall be more than two and one-half times as great in amount as the smallest prior installment of the same issue. If all of the bonds of an issue are not issued at the same time, the bonds at any one time outstanding shall mature as aforesaid. The principal of and interest upon such bonds shall be payable solely from the income and revenues derived from the operation of the bridge or bridges, sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements including rentals or other charges received from any reclaimed or reconstructed



area or territory for the acquisition, construction, improvement, reconstruction, reclamation, enlargement, extension or repair of which the same are issued; provided, however, that where any such city acquires or constructs a bridge or bridges under authority of this Act, and in connection therewith acquires or constructs any sea wall, breakwaters or other shore protection and reclaims or reconstructs any submerged area or territory and constructs therein or thereon any water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets or other like improvements, any such city may, as additional security for the payment of any bonds issued for the acquisition or construction of any such bridge or bridges, pledge any income or revenues derived from any such projects, and additionally secure the payment of any such bonds with a mortgage on any such project or projects or reclaimed area as hereinafter provided. No bond or coupon issued pursuant to this Act shall constitute an indebtedness of such city within the meaning of any State constitutional or statutory limitation. No such obligation shall ever be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. It shall be plainly stated on the face of each such bond and coupon that the same have been issued under the provisions of this Act and that it does not constitute an indebtedness of such city within any State constitutional or statutory limitation, and that the holder of such bond shall never have the right to demand payment of such obligation out of any funds raised or to be raised by taxation.

Sec. 6. As security for the payment of the principal of and interest on such bonds, such city may mortgage and encumber any part, parts or all of the properties and facilities for the acquisition, construction, reconstruction, reclamation, repair or improvement of the same such bonds were issued and may provide in such mortgage or incumbrance for a grant to the purchaser under sale or foreclosure thereunder of a franchise to operate the properties and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulat-

ing same then in force. The ordinance authorizing the issuance of such bonds shall contain a substantial description of the franchise which is to appear in the mortgage.

Sec. 7. The mortgage or encumbrance shall provide for a trustee to enforce foreclosure and the city shall have the option at any five (5) year period within said twenty (20) years after purchase of properties designated in the franchise, to repurchase said properties under reasonable terms and reasonable prices, to be set forth in said mortgage or encumbrance, but this limitation shall not extend to any reclaimed area acquired by individual purchasers.

Sec. 8. The management and control of any such properties and/or facilities so incumbered, during the time they are so mortgaged and incumbered, shall be in the hands of the governing body of the city, except as otherwise provided in Section 30, of this Act. The provisions of this Section, and Section 30 hereof, shall not apply when there has been a sale on foreclosure under the mortgage in this Act provided for.

Sec. 9. The bonds authorized hereunder shall not be subject to any limitations or provisions of the Bond and Warrant Law of 1931 and Acts amendatory thereof or supplemental thereto.

Sec. 10. The bonds issued under the provisions of this Act are legal investments for executors, administrators, trustees and other fiduciaries and for savings banks and insurance companies organized under the laws of this State.

Sec. 11. Bonds and interest coupons issued hereunder are hereby exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas, and it shall be plainly stated on the face of each such bond as follows:

"The principal of and interest on this bond are exempted from any and all State, county, municipal and other taxation whatsoever under the laws of the State of Texas."

Sec. 12. Bonds issued under the provisions of this Act shall have all of the qualities of negotiable instruments under the law merchant and the Negotiable Instruments Law.

Sec. 13. The governing body of any such city issuing any such bonds

shall, where practicable, require that the proceeds of the sale of bonds issued under the provisions of this Act be deposited in a special account or accounts in a bank or banks which are members of the Federal Reserve System, and shall require, in so far as practicable, that each such deposit be secured by direct obligations of the United States Government having an aggregate market value at least equal to the sum at the time on deposit, or, in any event, the proceeds shall be deposited in some bank or other depository, either within or without the State, which will secure such deposit satisfactorily to said governing body.

Sec. 14. All moneys received from any such bonds shall be used solely for the acquisition, construction, improvement, reclamation, reconstruction, enlargement, extension or repair of the project or projects for which issued including not more than five per centum (5%) for engineering, legal and other expenses and discounts incident thereto; provided, however, that such moneys may be used also to advance the payment of interest on such bonds during the first three (3) years following the date of such bonds to not more than the contract rate of interest. Provided, that any unexpended balance of the proceeds of the sale of any such bonds remaining after the completion of the project for which issued shall be put immediately into the bond and interest redemption fund for such bonds, and the same shall be used only for the payment of the principal of the bonds, or, in the alternative, to acquire outstanding bonds of the general issue from which the proceeds were derived, by purchase of such bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof. Any bonds so acquired by purchase shall be cancelled and shall not be re-issued.

Sec. 15. In case any of the officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures or countersignatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

Sec. 16. The reasonable cost and value of any services rendered to any such city by any such project or projects shall be charged against the city and shall be paid for monthly or otherwise, as the service accrues, from the current funds, or from the proceeds of taxes which such city, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for the purpose, and such funds, when so paid, shall be accounted for in the same manner as other revenues of such project or projects.

Sec. 17. Any city acquiring, constructing, reconstructing, reclaiming, improving, enlarging or repairing any project or projects as aforesaid pursuant to the provisions of this Act, may, at the time of the authorization of such bonds for any such purpose or purposes, provide in the authorizing ordinance for additional bonds for extensions and permanent improvements, which additional bonds may be issued and be negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

Sec. 18. Where a city has outstanding any bonds issued under the provisions of this Act, it may thereafter issue and negotiate new bonds on such terms as the governing body of such city shall deem advisable for the purpose of providing for the payment of any such outstanding bonds. Such new bonds shall be designated "refunding bonds," and shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded.

Sec. 19. Rates or other charges for services and facilities afforded by the project and for sales of reclaimed area shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the project or projects necessary to preserve the same in good repair and working order, to build up a reserve for depreciation of the project or projects, and to

build up a reserve for improvements, betterments and extensions thereto other than those necessary to maintain the same in good repair and working order, as herein provided. Such rates and/or charges shall be fixed and revised from time to time so as to produce these amounts, and the governing body shall covenant and agree in the ordinance authorizing the issuance of such bonds, and on the face of each bond at all times to maintain such rates and/or charges for services furnished by such project or projects as shall be sufficient to provide for the foregoing.

Sec. 20. The reasonable cost of administration and operation and the reasonable expense of maintaining such project or projects in good repair and working order shall be a first lien and charge against the income and revenues derived from the operation of such project or projects, superior to the lien of the mortgage or incumbrance on such project or projects.

Sec. 21. Out of the gross income and revenues of such project or projects there should be first set aside into an account to be known as the "Operation and Maintenance Account" monthly or oftener if necessary, sums sufficient to meet the cost and expenses set forth in Section 19 hereof. After provision for the "Operation and Maintenance Account" the ordinance authorizing the issuance of such bonds shall make provisions for a "Bond and Interest Redemption Fund" into which there shall be set aside monthly or oftener if necessary such portion of the gross income and revenues of such project or projects as shall be sufficient to pay when due the principal of and interest upon the bonds; provided, however, that in the segregation and separation of such gross income and revenues the governing body of the city may prescribe a reasonable excess amount to be placed in said bond and interest redemption fund from time to time during the earlier years of maturities of such bonds so as thereby to produce and provide a reserve fund for contingencies to meet any possible deficiencies therein in maturities of future years.

Sec. 22. The ordinance authoriz-

ing the issuance of such bonds shall definitely determine whether such project or projects shall be operated upon a calendar, operating or fiscal year basis and the dates of the beginning and ending of same.

Sec. 23. The governing body of such city may make adequate and suitable provision for the disposition of any surplus accumulations in the operation and maintenance account, or depreciation account, by causing same to be transferred to the bond and interest redemption fund, invested, or otherwise disposed of.

Sec. 24. The governing body of the city authorizing the bonds under the provisions of this Act may make provision for any such bonds to be called for payment on any interest payment date before maturity provided that the city shall have on hand in its bond and interest redemption fund sufficient money not otherwise appropriated or pledged, in excess of the interest and principal requirements within the next two (2) succeeding calendar, operating or fiscal years.

Sec. 25. Nothing in this Act shall be construed to prohibit the city, county or the State from appropriating and using any part of its available income and revenues derived from any source, other than in case of the city, from the operation of such project or projects, in paying any immediate expenses of operation or maintenance of any such project or projects or otherwise aiding in financing any part of the construction of said bridge or bridges, or reclaiming any submerged area or territory herein described.

Sec. 26. Rates of the city charged for services and/or facilities furnished by any such project or projects shall not be subject to supervision or regulation by any State bureau, board, commission or other like agency or instrumentality thereof; provided, however, that the functions, powers and duties of the State Board of Health shall remain unaffected by this Act.

Sec. 27. Any city issuing bonds under the provisions of this Act shall install and maintain proper books of record and account (separate entirely from other records and account of such city) in which full and correct entries shall be

made of all dealings or transactions of or in relation to the properties, business and affairs of the project or projects and the same shall be open for examination and inspection by any taxpayer, user of the services furnished by the project or projects, or any holder of the bonds issued under the provisions of this Act, or any one acting for or in behalf of such taxpayer, user of the services of the project or projects, or bondholder.

Sec. 28. This Act shall be construed as authorizing the issuance of such bonds provided for herein without submitting the proposition for approval of same to the voters of the city. Where bonds are authorized under this Act the city shall make publication of the ordinance authorizing the issuance of such bonds, in a newspaper of general circulation in such city, as provided for the publication of other ordinances.

Sec. 29. Nothing in this Act shall be construed as authorizing any city to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of income and revenues as aforesaid only where consistent with outstanding obligations of such city.

Sec. 29a. Any such city mentioned in Section 1 of this Act, in addition to the powers conferred under this Act, is hereby granted and shall hereafter have the power to borrow money from the Federal Government or any of its agencies created for the purpose of making such loan, for the purpose of constructing and maintaining said bridge and the other improvements herein provided for and to mortgage and incumber said properties and facilities and the net revenues and income from the operation thereof and everything pertaining thereto acquired or to be acquired to secure the payment of the funds necessary to said construction and improvement and as additional security therefor by the terms of such incumbrance may pledge and incumber the net income and revenues from the operation of all of said properties and facilities and may provide in such incum-

brances for a grant to the purchaser under a sale or foreclosure thereunder of a franchise to operate the property and facilities so incumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force.

Sec. 30. Anything in this Act to the contrary notwithstanding, no such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a permit from the Navigation and Canal Commissioners of such district and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the Navigation and Canal Commissioners of the navigation district governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated under the direct control and direction of said Navigation and Canal Commissioners; provided, that said commissioners may appropriate and use any available revenues of said district in defraying part of the cost of operation and maintenance of any bridge or bridges constructed hereunder. No city shall have the power to construct, maintain or operate any such bridge over any such entrance channel to any such deep water port except in conformity with this section.

Sec. 31. Any county in which any such city is situated is hereby authorized to appropriate to any such city for use in constructing any such bridge or bridges, or reclaiming or reconstructing any such submerged area or territory, or constructing sea wall or breakwater protection

for its waterfront, any available revenues of such county, and any such county is authorized to appropriate and apply any part of its available income and revenues to the operation and maintenance of any such project or projects.

Sec. 32. The State Highway Department of the State of Texas, with the approval of the Governor may appropriate and apply any available revenues of such department to aid in the construction, operation and maintenance of any bridge or bridges acquired or constructed under the provisions of this Act, together with any approaches thereto, or the acquisition of any properties in connection with or in furtherance thereof.

Sec. 33. The invalidity of any

section, sentence, clause, paragraph or portion of this Act shall not affect the validity of the remainder of this Act.

Sec. 34. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Sec. 35. The fact that but a limited time remains permitting cities to secure relief during this period of depression from the Federal Government in order to aid said cities and the unemployed, creates an emergency and an imperative necessity that the constitutional rule requiring all bills to be read on three several days in each House be and the same is hereby suspended, that this Act take effect and be in force from and after its passage, and it is so enacted.

### Final Disposition of Bills.

#### SUPPLEMENT.

Number of Bill or Resolu- tion	Date Filed	Vote	
		House	Senate
H. C. R. No. 93.....	May 19, 1933 ..... 4:45 p. m.	Passed by viva voce vote	Adopted
H. B. No. 807.....	May 16, 1933 ..... 11:15 a. m.	Yeas 119 Nays 9	Yeas 31 Nays 0
H. B. No. 921.....	May 19, 1933 ..... 4:45 p. m.	Passed by viva voce vote	Yeas 24 Nays 2
S. C. R. No. 57.....	May 20, 1933 ..... 12:00 noon Not approved by Governor	Adopted	Adopted
S. B. No. 553.....	May 19, 1933 ..... 2:15 p. m.	Yeas 82 Nays 31	Yeas 29 Nays 0
H. B. No. 154.....	May 22, 1933 ..... 10:15 a. m.	Yeas 93 Nays 26	Yeas 26 Nays 2
H. B. No. 844.....	May 22, 1933 ..... 10:15 a. m.	Yeas 125 Nays 0	Yeas 29 Nays 0

W. W. HEATH, Secretary of State.

# In Memoriam

## Homer Platt Brelsford

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### Senate Simple Resolution No. 116.

Senators Holbrook and Collie sent up the following resolution:

Mr. President and Members of the Senate:

It is with distressing frequency that this Senate has been called upon of late to record the passing of some distinguished citizen, whose service in this body during the years gone by has been of profound inspiration to those who have come after him.

This was especially true when on last Thursday, at his home in Eastland, Homer Platt Brelsford fell gently to sleep, after years of heroic suffering. He was born in Illinois on September 1, 1869, and spent his young manhood in his native state. After obtaining a common school education, he entered Notre Dame University, where he graduated with honors. This done, he came to Texas in 1892, settling at Eastland, where he lived the remainder of his life, practicing law, attending to business, and interesting himself in matters of political nature.

He served in the House of Representatives during the Twenty-eighth and Twenty-ninth Legislatures; and was a member of the Senate from 1913 to 1917. For a good many years he was president of a bank in Eastland, and on several occasions performed the duties of a special Justice of the Supreme Court of Texas; and of the Court of Civil Appeals in his district. He was the second president of the West Texas Chamber of Commerce, and for more than a quarter of a century was active in the councils of the Democratic Party in this State—having been twice selected as a delegate to National conventions, and was one of the presidential electors last year.

When news of his death reached the Capitol last Friday, his friends were inexpressibly shocked. It had been known for several days that he lay desperately ill at his home, but the sorrow at his passing was none the less poignant to those who shared his friendship. When the Pale Messenger closed his weary eyes in rest, there never passed from earth a soul of nobler build; and the fine personality which he bore here will rest as a benediction upon those who knew and loved him.

He belonged to that race of men who never lost interest in the hopes, the aspirations, and the general welfare of the masses. His great intellect and abiding faith, that common justice should be the rule and guide between governments, as well as between men, always placed him in the vanguard of the most able defenders of the principles upon which this government was founded.

Having spent most of his life in the practice of law, he was wont to go deeper than ordinary rules would imply in all matters at issue; hence he would often be found making applications beyond the letter or control of mere statutes.

He was ever alert to see that all statutes squared with those deeper fundamentals which he found, either by implication or direction in the written constitutions. Hence it was that he came to be known and regarded as a sound and safe practitioner at the bar. He had few equals in his knowledge of history, and his literary and aesthetic side beamed with a brilliance unsurpassed by any orator of his day. Those who have been privileged to hear him at his best will testify to his masterful use of rich and rare literature, in clothing the thoughts which he wished to convey.

In matters of government he had a clear vision of all those which have come and gone before, as well as those which exist in the world of today. In some of his great speeches, I have heard him build them up and tear them down at will. His sweep of imagination led him to the steps of the Acropolis, where he saw Athens destroyed, together with the last vestige of glory that bedecked the brow of ancient Greece. With a clear vision, he sat in the arena of the Roman Senate and from this vantage point he observed the decay and the fall of the Empire, and of the Republic. With the blind Milton, he watched the Anglo-Saxon race, as it fought for and won the three cardinal principles of human liberty, which had ruled the minds of men since the birth of Christ. Freedom of speech, freedom of the press, freedom of religion, constituted the trinity upon which he staked his political faith, and by which he lived to see this Nation grow to be the foremost in all the world.

For more than forty years, he took an active part in the affairs of this State. Always a potent factor in the community in which he lived, he served with distinction in every movement for the common good; and with all of that, he never neglected an opportunity to so wield his influence, that others seeing his good works, might choose to follow in his footsteps. While firm in his views, and never faltering when choosing the right as he saw it, he was withal a man of charming demeanor. His condemnation of hypocrisy was only equaled by his defense of truth and righteousness.

He loved the truth, for truth's sake; and scorned the traitor and the hypocrite, because these twin evils have always been subversive to orderly society.

For more than thirty years I knew and respected him. He was of suave demeanor, unfailing courtesy, stern conviction, gentle as a woman, and brave as a lion. His mind was of that rare quality that comprehended all questions in their larger aspects, always subordinating details to the clear grasp of the principles which they involved, and ever subjecting their lesser bearing to the attainments of right and justice. But with this, he never failed to remember that the justice which he had in mind was that which comprehended the acts between man and man, as applied to the whole race, rather than to a few individuals. With this quality of mind he combined a delightful and inspiring candor in his relations with the brethren of his profession.

Always firm in his views, he possessed that rare courage which counted it no weakness to yield, when convinced that he was wrong. One of the finest characteristics of this gifted man, was his simple, child-like faith. He had faith in himself, faith in his fellows, and faith in the goodness of God. He viewed the beauties of the hour with his face forward, and firmly believed that right would eventually triumph over wrong, and justice over injustice, wherever a contest had been waged.

In this he carried out the concepts and practices of all true men. He has left a great and imperishable imprint upon the minds of those who knew him best, both in his private life and his public career—the former found in an unbroken course of unselfish conduct, and in the splendid fruition of an upright life; and the latter woven into the enduring records of his adopted State. In all that pertained to the life and progress of the little city where he lived, our friend and former member of this Senate, was an outstanding, heroic figure. By reason of his profession, he was given great opportunity for good, which he in part created. Always and everywhere, his neighbors could find him spending and being spent in matters that made for betterment of their common welfare. The nature of his calling constantly brought him in contact with those unable to pay for his services, and to these he gave freely, without hope of reward.

We can well understand that what we say here will not add to nor detract from his golden graces. His course is run, and looking back upon his life's work may only enable us to accept what he did

here at its true value, and to appropriate its larger meaning to the proper elevation of our own poor natures; and to subject its usage to the greater purposes for which they are given into our feeble hands.

It is certain that we do but render service to ourselves when we pause to contemplate the lives of men like him, and steep ourselves in the memory of their virtues and their achievements.

Gentle, brave, honest, courtly and masterful of intellect, our distinguished friend has joined the countless hosts beyond the stars, leaving to his family and to his adopted State a priceless legacy of patriotic service. He sleeps amid scenes, where as a youth forty-one years ago, he pitched his tent at the little town of Eastland, on the upper reaches of the Leon River. His whole life, from that early day until he finished his course last Thursday, is worthy of print as an inspiration to the youth of the land; but time and space forbid it here.

We bid you an affectionate farewell, old friend, pending the glories of a resurrection—and until then,

For us terrestrial mountains rise;  
For thee celestial rivers run;  
Our steps are neath familiar skies  
But thine in realms beyond the sun.

The wild flowers, emblems of thy soul,  
Around thy tomb will bud and blow,  
While Leon's melancholy roll  
Will chant thy requiem soft and low.

There oft the pilgrims musing gaze,  
Will linger on the votive stone  
That mutely tells to future days  
Thy power and charm forever flown.

And there, in golden time to come  
When all the clamor of our day  
Has sunk to silence, and the hum  
Of vain detractions died away

Fame's Angel, hovering o'er thy rest,  
His Amaranthine bough will wave  
Proclaiming — Here lies glory's guest,  
Here genius sleeps in Brelsford's grave.

Be It Resolved by the Senate of Texas, That the above tribute in memory of Homer Platt Brelsford be printed in the Journal as a token of our respect; that a copy of same be mailed to his wife and other members of his family; and that, when the Senate adjourns for the day, it do so in his honor.

COLLIE,  
HOLBROOK,  
BECK,  
BLACKERT,  
COUSINS,  
DeBERRY,  
DUGGAN,  
FELLBAUM,  
GREER,  
HOPKINS,  
HORNSBY,

MARTIN,  
MOORE,  
MURPHY,  
NEAL,  
ONEAL,  
PACE,  
PARR,  
PATTON,  
POAGE,  
PURL,  
RAWLINGS,

REDDITT,  
REGAN,  
RUSSEK,  
SANDERFORD,  
SMALL,  
STONE,  
WOODRUFF,  
WOODUL,  
WOODWARD.

Read and adopted unanimously by a rising vote.